

# AGENDA

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**Meeting:** Western Area Planning Committee  
**Place:** Council Chamber - County Hall, Trowbridge BA14 8JN  
**Date:** Wednesday 23 October 2019  
**Time:** 3.00 pm

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

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## Membership:

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

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## Substitutes:

Cllr David Halik	Cllr Steve Oldrieve
Cllr Russell Hawker	Cllr Graham Wright
Cllr George Jeans	Cllr Toby Sturgis
Cllr Gordon King	Cllr Philip Whitehead
Cllr Jim Lynch	Cllr Ian Thorn

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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 - 10*)

To approve and sign as a correct record the minutes of the meeting held on 25 September 2019. (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 2.50pm on the day of the meeting.

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

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

### Questions

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

Those wishing to ask questions are required to give notice of any such questions in writing to the officer named on the front of this agenda no later than 5pm on **Wednesday 16 October 2019** 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 18 October 2019**. 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 11 - 12*)

To receive details of completed and pending appeals and other updates as appropriate. (Copy attached)

#### 7 **Planning Applications**

To consider and determine the following planning applications.

7a **19/06692/VAR - Barney Lodge Day Nursery, 5 Westbury Road, Warminster, BA12 0AN** (*Pages 13 - 34*)

7b **19/02724/FUL - No.212 The Common Holt BA14 6QN** (*Pages 35 - 48*)

7c **19/07875/FUL - 8 Fulmar Close Bowerhill SN12 6XU** (*Pages 49 - 68*)

#### 8 **Urgent Items**

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

### **Part II**

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

**None**

## **WESTERN AREA PLANNING COMMITTEE**

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### **MINUTES OF THE WESTERN AREA PLANNING COMMITTEE MEETING HELD ON 25 SEPTEMBER 2019 AT COUNCIL CHAMBER - COUNTY HALL, TROWBRIDGE BA14 8JN.**

#### **Present:**

Cllr Christopher Newbury (Chairman), Cllr Trevor Carbin, Cllr Ernie Clark, Cllr Andrew Davis, Cllr Peter Fuller, Cllr Sarah Gibson, Cllr Edward Kirk, Cllr Stewart Palmen, Cllr Pip Ridout and Cllr David Halik (Substitute)

#### **Also Present:**

Cllr Johnny Kidney

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#### **45 Apologies**

Apologies for absence were received from:

Cllr Jonathon Seed who was substituted by Cllr David Halik

Cllr Darren Henry.

#### **46 Minutes of the Previous Meeting**

The minutes of the meeting held on 21 August 2019 were presented.

#### **Resolved:**

**To approve as a true and correct record and sign the minutes.**

#### **47 Declarations of Interest**

There were no declarations of interest.

#### **48 Chairman's Announcements**

There were no Chairman's Announcements.

#### **49 Public Participation**

The Committee noted the rules on public participation.

50 **Planning Appeals and Updates**

The Committee noted the contents of the appeals update.

51 **Planning Applications**

The Committee considered the following applications:

52 **18/11885/FUL: The Yard, Westwood, Bradford on Avon, BA15 2AL**

**Public Participation**

Margaret Christison spoke in objection to the application

Amanda Bishop spoke in objection to the application

Brian Oliver spoke in objection to the application

George Mumford, Westwood Parish Council, spoke in objection to the application

Verity Giles-Franklin, Senior Planning Officer, introduced the report which was recommended for approval. The planning application was for a Change of use from agricultural equestrian to mixed use - equestrian and dog day care facility for maximum 20 dogs.

Key issues included; Principle of the change of use, impact on the Green Belt, impact on neighbouring amenity and highways issues.

Additional representations had been received which raised issues of the quality, and accuracy of the acoustic report.

The officer noted that the noise assessment report had been revised with the correct address and explained that the two closest neighbours to the application site, had been used for the noise receptors, which concluded that the noise levels were of an acceptable level.

Members of the Committee had the opportunity to ask technical questions of the officer. Details were sought on: Whether part of the hay barn was already used as an office; Whether the RSPCA were consultees and whether the noise assessment worst case scenario was robust enough.

The officers response noted that: in 2001 the site had permission for the hay barn, tack room, stables and amenity room for ancillary use; the RSPCA were not statutory consultees for the council but for the applicant to consult with and that expert guidelines and methodology were followed to conduct the noise assessment including the worst case scenario and were therefore considered as robust measures.

Members of the public, as detailed above, had the opportunity to speak on the application.

The local member Cllr Kidney spoke in objection to the application noting the key issues as; noise, concerns about the robustness of the noise assessment, that the community would be at risk of nuisance, concerns on whether the conditions could be enforced and that there was a lack of guidance and policy on the issue.

Officers noted that the noise assessment was a professional acoustic report based on national policy and carried out by professionals, with no expert advice received against the assessment.

A motion was moved by Cllr Sarah Gibson to approve the application for a temporary period of two years with added conditions that no more than five dogs could exercise at one time and that before approval was given, more information was required on the acoustic mitigation being implemented within the accommodation. The motion was seconded by Cllr Pip Ridout.

Following a short debate and advice from officers the motion was amended by removing the condition that no more than five dogs could exercise at one time. The was agreed by Cllr Sarah Gibson and the Seconder Cllr Pip Ridout.

At the end of the debate it was;

## **RESOLVED**

**To unanimously approve planning permission subject to the following conditions:**

**1. The dog day care use hereby permitted shall be discontinued no later than two years from the date the use commences, unless an extended timeframe is approved beforehand through the grant of a further planning permission by the Local Planning Authority. The date of commencement of the use authorised by this first permission shall be notified to the local planning authority no later than 7 days from the use commencing.**

**REASON: A temporary planning permission is considered necessary to enable the local planning authority to assess during this period of operation whether the use can be carried out on a permanent basis without causing an unreasonable level of disturbance to the amenity of nearby residential properties.**

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

**Location Plan, as received on 6 February 2019; and Drawing No: PBPDS/PP187, Rev C, Existing and Proposed Elevations, Floor Plans and Site Plan, as received on 28 May 2019**

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

3. Before the dog shelter is first brought into use, details of the proposed building works, both internal and external and including noise insulation measures shall be submitted to and approved in writing by the Local Planning Authority. These works shall be completed before the building is first brought into use as a dog shelter.

**REASON:** To protect the appearance of the area and to minimise the noise disturbance to neighbouring properties.

4. The use hereby permitted shall only take place between the hours of 0700 - 1800 on Mondays to Fridays. The use shall not take place at any time on Saturdays, Sundays or during Bank or Public Holidays.

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

5. The exercise and play area use within the paddock hereby permitted shall only take place between the hours of 0900 - 1700 on Mondays to Fridays. The use shall not take place at any time on Saturdays, Sundays or during Bank or Public Holidays.

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

6. There shall be no more than 20 dogs on the site at any one time.

**REASON:** In the interests of residential amenity

7. The site shall not be used for the kennelling of any dogs at any time.

**REASON:** In the interests of residential amenity

8. No external lighting shall be installed on site until plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage 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.

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**Urgent Items**

There were no Urgent Items.



(Duration of meeting: 3.00 - 4.30 pm)

The Officer who has produced these minutes is Jessica Croman of Democratic Services, direct line 01225 718262, e-mail [jessica.croman@wiltshire.gov.uk](mailto:jessica.croman@wiltshire.gov.uk)

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

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**Wiltshire Council**  
**Western Area Planning Committee**  
**23<sup>rd</sup> October 2019**

Planning Appeals Received between 13/09/2019 and 11/10/2019

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Appeal Start Date	Overturn at Cttee
18/07022/FUL	Land East of The Poplars Residential Park, Poplar Tree Lane Southwick, Trowbridge Wiltshire, BA14 9NB	SOUTHWICK	Use of land for the stationing of caravans for residential purposes and the erection of a stable.	DEL	Hearing	Refuse	27/09/2019	No
18/07033/FUL	Land East of The Poplars Residential Park, Poplar Tree Lane Southwick, Trowbridge Wiltshire, BA14 9NB	SOUTHWICK	Use of land for the stationing of caravans for residential purposes and the erection of a stable.	DEL	Hearing	Refuse	27/09/2019	No
18/07423/VAR	Plots 1 - 3, The Poplars Residential Park Poplar Tree Lane Southwick, BA14 9NB	SOUTHWICK	Removal of condition 2 on appeal APP/Y3940/W/15/3006435 to remove the personal condition and allow occupation of the site by anyone who is a Gypsy and Traveller	DEL	Hearing	Refuse	27/09/2019	No

Planning Appeals Decided between 09/08/2019 and 13/09/2019

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Appeal Decision	Decision Date	Costs Awarded?
17/08216/FUL	Land North of 146 Upper Westwood Wiltshire, BA15 2DE	WESTWOOD	Provision of one self-contained glamping pod with parking, change of use of land to leisure/tourism.(Resubmission of 17/02852/FUL).	WAPC	Written Reps	Approve with Conditions	Dismissed	26/09/2019	Appellant Applied for Costs - <b>REFUSED</b>
18/11196/FUL	Land South East Of 1 Reeves Piece, Bratton Wiltshire, BA13 4TH	BRATTON	Erection of 1no. dwelling and creation of a new access and double garage	DEL	Written Reps	Refuse	Allowed with Conditions	24/09/2019	None

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## REPORT FOR WESTERN AREA PLANNING COMMITTEE

<b>Date of Meeting</b>	23 October 2019
<b>Application Number</b>	19/06692/VAR
<b>Site Address</b>	Barney Lodge Day Nursery, 5 Westbury Road, Warminster, BA12 0AN
<b>Proposal</b>	Removal of condition 3 appended to approved planning application 18/01851/FUL that restricted consent for a temporary 2-year period for the partially retrospective change of use from residential to child care nursery use and to vary condition 3 of planning consent W/06/00806/FUL to change the permitted number of children from 45 to 70) to allow the use of the nursery premises for 70 children to be made permanent.
<b>Applicant</b>	Mrs Lyn Ashton
<b>Town/Parish Council</b>	WARMINSTER
<b>Electoral Division</b>	Cllr Pip Ridout WARMINSTER WEST
<b>Grid Ref</b>	387,541 145,696
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	David Cox

### **Reason for the application being considered by Committee**

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

#### **1. Purpose of Report**

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

#### **2. Report Summary**

The main issues discussed in this report are:

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

#### **3. Site Description**

The application site relates to the Barney Lodge Day Nursery which is a former residential property located at No 5 Westbury Road in the settlement limits of Warminster and is a large detached building located in a predominantly residential part of the town comprising of a mixture

of fairly large detached and semi-detached dwellings. The existing nursery has a ground floor area of 189.3 square metres, a below ground floor area of 32.0 square metres and a first-floor area of 68.2 square metres and has a tarmac car park at the site's frontage which accommodates 6 spaces with sufficient space for vehicles to turn and leave the site in a forward gear. The access is fairly tight at no more than 4.8 metres wide, but it is wide enough for two cars to pass each other and visibility splays of 2.4 metres by 59 metres looking right and 2.4 metres x 120 metres + looking left are available.

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

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

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



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

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

#### **4. Planning History**

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

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

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

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

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

18/01851/FUL - Change of use of part of building from residential to nursery uses (Part Retrospective) and Variation of Condition 3 of planning consent W/06/00806/FUL to change the permitted number of children from 45 to 70 – Two-year temporary permission granted at Planning Committee on 30 May 2018.

## 5. The Proposal

This application seeks to remove condition 3 of approved application 18/01851/FUL (the two-year temporary permission restriction). For clarity sake, condition 3 reads as follows:

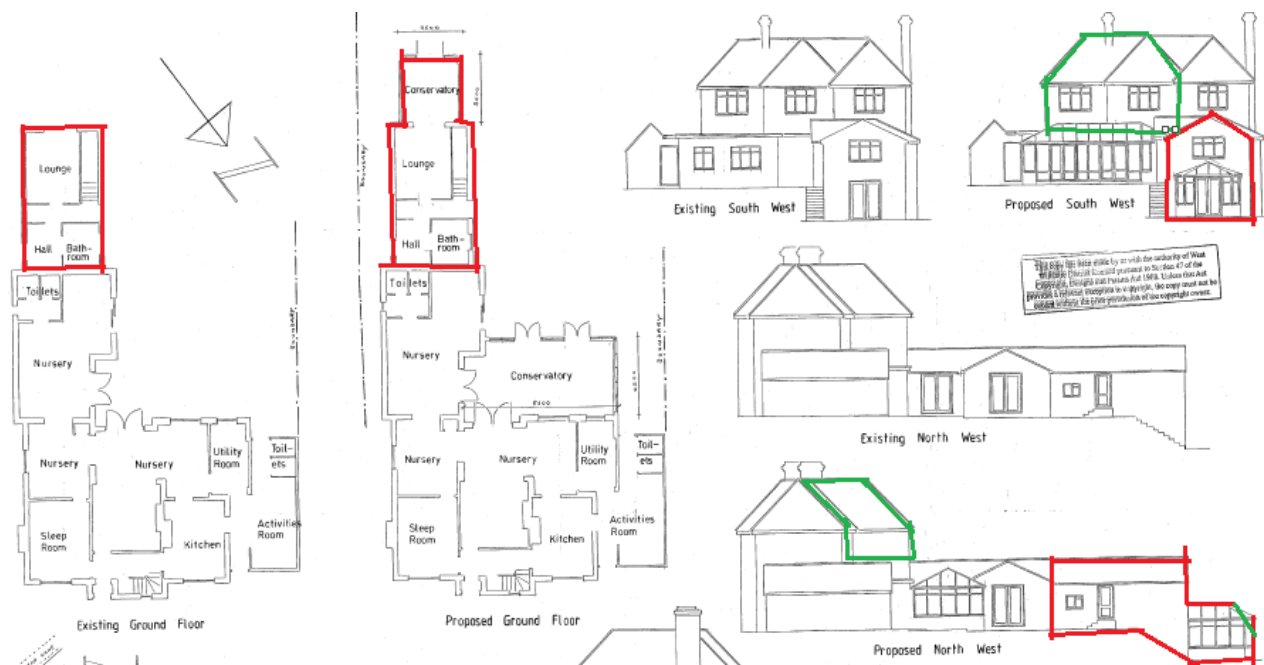
*“3. The use hereby permitted shall be discontinued on or before 31 May 2020 unless an extended timeframe is approved under a separate application.*

*REASON: In the interests of amenity.*

*NOTE: The approved use only applies to this planning application (45 to 70 children and the use of the managers flat as nursery accommodation). Should another application not be approved by 31 May 2020 the number of children and the managers flat shall revert back to the extant permissions as approved under applications W/06/00806/FUL and W/07/01302/FUL”.*

The proposal also seeks a variation of planning condition (condition no. 3) which was imposed at the time of granting planning application reference W/06/00806/FUL to allow for an increase in the number of permitted children to be accommodated by the day nursery from 45 to 70 on a permanent basis.

Application 18/01851/FUL also sought consent to convert the existing managers flat (which was granted under W/06/00806/FUL and is illustrated in the image below) to provide the additional nursery space (to accommodate the increased number children to 70).



Members are advised that there was an erroneous element within the 18/01851/FUL application which assumed and sought partial retrospective permission for “*partial retrospective*” change of use of residential use to nursery use. It transpires that this was not in fact the case. The approved plans (as highlighted above in red outline) illustrate that the managers flat was located in the projecting rear elevation section of the building but not the first-floor extension to the main building (outlined in green). In 2018, the applicants confused their submission by arguing that a partial

change of use had taken place – when it had not. The first floor of the building (which is currently used for the under 2's) can be legitimately used (subject to the restricted levels of occupancy) for nursery accommodation.

However, application 18/01851/FUL was permitted on a temporary basis and due consideration must be given to any permanent change to the premises, including the use of the managers flat to nursery accommodation.

As part of the case officer's site inspection which was carried out 2 May 2018 (pertaining to application ref 18/01851/FUL) it was confirmed that the consented managers flat was not being used for nursery accommodation and that there was no evidence of any planning breach of planning condition 4 of W/06/00806/FUL. The managers flat is however now being used as nursery accommodation as permitted by application 18/01851/FUL.

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

Following the decision of the elected members on 30 May 2018, application 18/01851/FUL was implemented and this application seeks to make the temporary and caveated permission permanent.

There are 15 full time employees and 11 part time employees. For the avoidance of any doubt, none of the members of staff park at the premises.

## **6. Planning Policy**

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

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

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

## **7. Summary of Consultation Responses**

**Warminster Town Council** – Objects on the following grounds:

- Adverse impact on neighbouring amenity through additional noise
- The proposal would adversely affect highway safety and the convenience of road users
- This is a residential area and unsuitable for this type of use
- Children would be cramped inside if weather is bad



- Concerns over insufficient toilet and other facilities
- Concerns that a future application may follow to increase from 70 children to an even higher number.

**Wiltshire Council's Early Years Childcare Services Officer – Support:**

Demand for Early Years & Childcare provision continues to grow across Wiltshire. Across Warminster it's self approximately 561 children aged two, three and four will be seeking a place in a nursery or pre-school in any one year. Children don't always require full time place so one place can accommodate two children, some two year olds don't attend a pre-school or nursery at all. Other parents will choose a nursery outside of Warminster e.g. on their way to work which could be in another town. Some children will be cared for by a Childminder.

In Warminster we have 387 nursery/pre-school places for children who will reach the age of two, three and four years of age over the coming school year. Currently we have sufficient Early Years provision in Warminster, but with the increased demand for places as Warminster grows all the places that are currently available in Warminster are required. With the development of the West Warminster Area Urban expansion we will definitely need to maintain and increase the amount of nursery/pre-school provision in Warminster. Further demand has come about due to the Government providing working parents 30-hour Free Entitlement and not just the universal 15 hours.

Due to the potential growth for Warminster we would wish to support the continuation of the two year permission for 18/01851/FUL, I agree that in the future we will require a considerable number of new Early Years places to support families to access nursery/pre-school provision locally, this could mean that may even need another nursery for the town to meet the demand.

**Wiltshire Council's Environmental Health Officer – No objection.**

**Wiltshire Council Highways Officer – No objection subject to maintaining existing Green Travel Plan.**

**8. Publicity**

A site notice was displayed on a lamp post at front of the site and two neighbour notification letters were posted. Following these notifications, 2 letters of objection were received from the same objector.

- There is no need for the extra spaces that are proposed to become permanent
- The concerns of residents regarding increased noise were not properly considered when the application was first submitted to the Planning Committee in May 2018
- The committee only concentrated on traffic concerns not noise
- The number of children has increased which has led to more noise
- If not addressed now, this would only become worse and more distressing for neighbours
- Children are outside from 9am to 5.15pm Monday to Friday. There should be a timetable for when children should be allowed outside and this should be conditioned
- The Council should consider requiring a 90-minute period when there should be no outside play during the morning and afternoon
- Neighbours were not informed of the May 2018 committee date and the childcare services officer position could not be challenged in person

**9. Planning Considerations**

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

otherwise. In this case, the Wiltshire Core Strategy, including those policies of the West Wiltshire District Plan that continue to be saved and enshrined within the WCS, constitutes the relevant development plan for the Warminster area.

## 9.1 Principle of the Development

9.1.1 The Nursery has been operating since circa 1988 and is a well-established business. It is noted that as part of the public notification exercise a complaint was lodged with the Council’s public protection team in 2014, which resulted in on-site adoptive measures to reduce noise and disturbance created by children in the grounds. The principle land use of the property being used as a day nursery is extant and is not open for re-consideration. However, the proposed expansion of the premises to accommodate up to 70 children on a permanent basis (i.e. 25 more than the consented 2006 implemented development).

9.1.2 Legislatively, it is important to appreciate that nursery facilities must comply with the requirements set by the Department of Education “*Statutory Framework for the Early Years Foundation Stage: Setting the Standards for Learning, Development and Care for Children from Birth to Five*”; which came into force 3 April 2018; with Ofsted being the appropriate overseers and enforcers. Under the statutory framework, nurseries must provide a minimum space of 3.5m<sup>2</sup> for each child under the age of 2; 2.5m<sup>2</sup> for two-year olds and 2.3m<sup>2</sup> for three to five year olds.

9.1.2 In this particular case, the Barney Lodge nursery has approximately 200m<sup>2</sup> of usable internal floor area to accommodate children once toilets, staff and circulation spaces are excluded. This ultimately affects the maximum number of children that can be accommodated within the premises when applying the Government Standards (listed above). The applicant has provided two examples of how 70 children could be accommodated within the nursery.

### Example 1

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

### Example 2

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

9.1.3 The Government space standards do not state whether this is a minimum or a maximum but for the avoidance of doubt, officers have treated the threshold as a minimum requirement. Therefore, more space could be allocated for each child if the nursery so decides by reducing the maximum child intake. The nursery submitted this application to increase the number of children to 70 knowing how much space they have available. Both submitted examples record how the

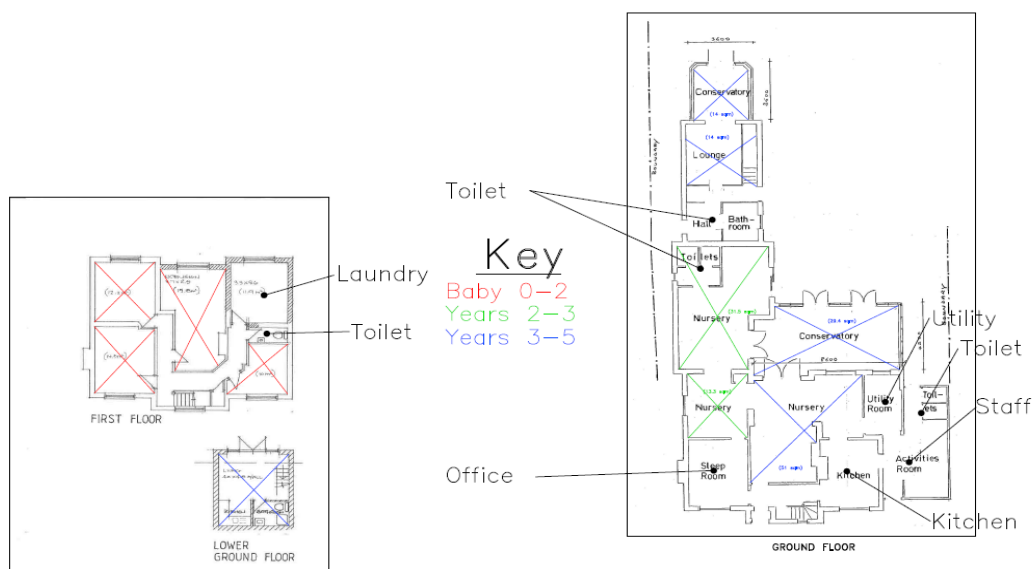
facility could accommodate 70 with some flexibility to respond to the occasions when the nursery may have to accommodate more children of different age groups. Nevertheless, officers consider it necessary for any permission to be restricted by way of a planning condition that limits the total number of children to 70.

## 9.2 Impact on Neighbouring amenity

9.2.1 Adopted Wiltshire Core Strategy Core Policy 57 (criterion vii) requires development to have regard to the compatibility of adjoining buildings and uses, the impact on the amenities of existing occupants including consideration of privacy, intrusion and noise. The Noise Policy Statement for England aims to avoid “significant” adverse impacts on health and quality of life. Officers acknowledge that a noise related complaint was submitted to the Council’s environmental health / public protection team in 2014, which resulted in the applicant and site operator making changes as to how the external space and garden are used by children.

9.2.2 It is noted that since the Western Area Planning Committee’s decision to grant temporary permission that another noise complaint was made to the Council’s environmental health / public protection team (around the same time as this application was received). The case officer has been advised that the environmental health team have completed their investigations and have not upheld the complaint. Moreover, the Council’s Environmental Health team have confirmed that they have no objection to the continuation of the nursery accommodating up to 70 children on a permanent basis.

9.2.3 In the consideration of 18/01851/FUL the case officer undertook two site inspections at No 6 Westbury Road which shares a boundary with the nursery site. The first visit was undertaken during the afternoon on Wednesday 2 May 2018 (after the children’s lunchtime) after it had been raining in the morning. The visit lasted approximately 30 minutes. The case officer observed that the children were kept inside presumably because of the wet ground and occupied the large conservatory which is adjacent to No 6 and is illustrated on the plan reproduced on the following page. Whilst in the garden of No. 6 a degree of noise from the children within the conservatory was picked up, and would, if it continued for a sustained period of time lead to a substantive level of neighbouring harm. During the first visit to No.6, the case officer noted that the audible noise from the children in the conservatory only lasted a short period of time, presumably following staff intervention and/or as a consequence of the children being taken away from the conservatory to another section within the nursery.



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

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

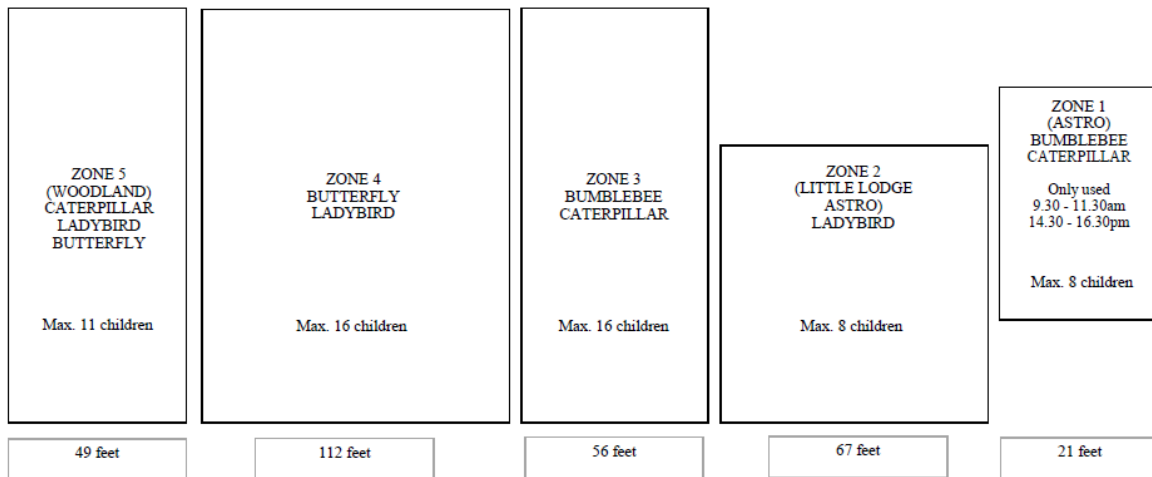
9.2.6 The proposed permanent conversion of the managers flat which is formed within the solid walled construction of the premises would provide additional nursery floor space that would have sufficient protection in terms of safeguarding neighbouring amenity. When the case officer visited the application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

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

9.2.8 As part of the public participation exercise in application 18/01851/FUL, neighbours and local residents referenced the fact that when the nursery first opened there wasn't many children and the use was perfectly acceptable. The approval of W/06/00806/FUL (which was also determined at planning committee) extended the existing nursery from a capacity of 24 children to 45 children; and condition 3 was imposed to limit such a number as there had been no limit previously imposed. The imposition of the 45 children limit cap as a condition was appropriate at the time recognising the extant standards that applied in 2006 as well as acknowledging the amount of floorspace within the nursery that could be used for childcare nursery purposes. The condition does not and could not dictate how each part of the nursery operates for the functions of looking after children. Such a condition would be unenforceable and would fail the Wednesbury Principles to which all condition must legally satisfy.

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

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



Max. 51 children  
(4 groups in 4 of the 5 zones)

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

9.2.11 In application 18/01851/FUL, the case officer's second site inspection to the neighbouring property at No 6 took place during the afternoon on Friday 4 May 2018, when children were outside playing in the rear sections of the garden in (in zones 4 and 5). Zones 1 to 3 did not have any children at the time of the case officer's site inspection. The noise observed was akin to noise usually heard at any school and was considered to be at a reasonable level and was not significantly disruptive or harmful.

9.2.12 It is not possible to condition the number of children that would be allowed to play outside or within each section of the garden at any given time. This would fail the reasonableness and enforceability test. It would of course be entirely possible for 45 children to make as much, if not more noise, than 70 children. The critical and necessary mitigation would be secured through proper staff management; and officers have applied significant weight to the applicant's commitment to impose the aforementioned staff ratios for outside play; and in addition, officers are satisfied that the nursery management team actively want to sustain a good reputation amongst parents and neighbours. Should the proposed site management falter and statutory noise nuisance complaints be lodged, the Council's public protection would investigate and there may need to be additional noise mitigation measures and agreements put into place. For the purposes of this application, planning and public protection officers are satisfied with the commitments expressed by the applicants and in limiting the maximum number of children being outside at one time to 51, represents an additional 6 children that could be outside at present. This uplift would not be substantial enough to warrant the refusal of the application.

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

9.2.14 It is also important to appreciate that the nursery use would only be limited to Mondays to Fridays with no use at the weekends or bank holidays, which can be conditioned. It is furthermore appreciated that the use of outside areas/zones are often influenced by the weather conditions

as the case officer's first site observation revealed. During spells of hot weather e.g. in June 2017, it is to be expected that children would be largely kept inside to protect them from the sun and avoid excessive play which would as a consequence, limit the levels of noise. On the basis of the above, it is submitted that the increased number of children be accommodated within the existing premises and the proposed extension to the operating hours from 7am to 6pm would not cause significant adverse harm to neighbouring amenity to warrant a refusal of planning permission.

9.2.15 It is also important to record that the case officer has not visited the neighbouring property at No 6 as part of the assessment of this application and writing up this report because the owner/occupier when asked, refused the officer access. However, due cognisance should be given to the fact that recently as part of the noise complaint raised by local resident, officers from the public protection have made a visit, and after investigating the complaint, report there is no statutory noise nuisance taking place.

9.2.16 The case officer has however visited the site and taking note of the prevailing existing local relationships and conditions which will be reported to members at the committee meeting.

### **9.3 Impact on Highway Safety**

9.3.1 Officers acknowledge that this is another area of great concern as set out clearly in the representations submitted by the concerned third parties and the Town Council. As part of wanting to observe and appreciate how the nursery is accessed by parents dropping off their children, in application 18/01851/FUL the case officer visited the site on three occasions which included an early morning visit to witness the existing peak time traffic levels. The other two visits were around midday/the early afternoon. In this application a further site visit on Friday 4 October between 8.15am and 9am was undertaken.

9.3.2 The morning visit in application 18/01851/FUL was commenced just after 8am on Wednesday 2 May 2018, which coincided with prolonged and very heavy rainfall. The nursery had already opened at 7.30am. The applicant submitted timetable for arrivals indicates that there should have been 3 or 4 cars every ten minutes, which was broadly adhered to until approximately 8.53am when a total of 9 cars arrived at site – with 7 cars entering the car park and two being parked in dedicated bay on Westbury Road). At 9am there were a total of 5 cars (4 in car park and 1 on the road).

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

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

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

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

9.3.8 Officers also report that between 8.15am and 8.53am (in 18/01851/FUL) during the case officer's unscheduled visit, the car park did not have any more than 3 cars on site at any one time and vehicles were able to safely enter and leave the site. The site visit was invaluable in terms of observing and understanding that parent drop offs tended to last for about 3 minutes on average. The submitted timetable breaks each time period into 10-minute blocks for the period of: 7.30am to 9.40am – allowing for 14 x 10-minute blocks. In a worst-case scenario if all 70 children were to arrive by car this would mean 5 cars would need to be allocated for every ten minute slot. However, it is to be expected, and as encouraged by the nursery that some parents shall bring their children by foot.

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

9.3.10 In the 4 October 2019 site visit, the case officer acknowledges that Fridays are likely to be less busy than at the start of the week. Nonetheless, during a period between 8.15am and 9am the car park only had one car at a time and drop offs continued to average around 4 minutes. There did not seem to be any issue with highway safety on that particular day. Additionally, in verbal conversations with a neighbouring objector, the case officer specifically asked if the highway arrangement was being adhered to. The objector accepted that the timetable was being reasonably kept to which further demonstrates that increasing the pupil numbers to 70 has not caused any undue harm to highway safety.

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

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

9.3.13 Officers note that there have been no accidents within 50 metres of Barney Lodge for the last 17 years; and given the applicant's commitment to spreading the arrival times, the projected nominal increase of vehicle movements along and off Westbury Road would not lead to substantive harm.



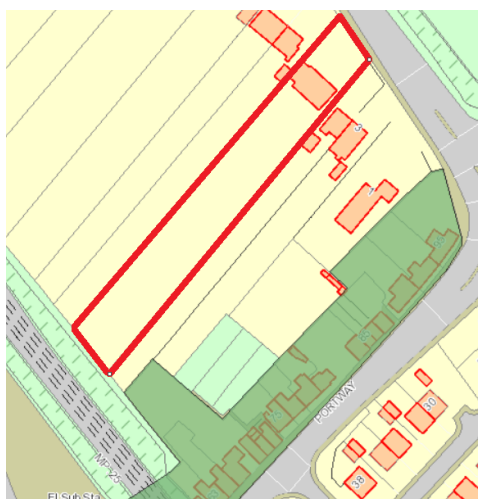
9.3.14 All the nursery staff either park off site or are dropped off which was observed during the case officer's site inspections (including 4 October 2019). It was also noted that staff were dropped off on the main road rather than inside the car park, which left the spaces free for parents. Staff park on surrounding roads where existing road restrictions allow and there can be no substantive objection thereto. The number of full-time employees would potentially rise from 12 to 15 and the number of part time employees to increase from 7 to 11. Officers accept that this would consequently increase the pressure on surrounding roads but there is plenty of on road parking spaces available along Cophead Lane and Portway to accommodate such additional demand without harming highway safety interests.

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

#### **9.4 Impact on designated Heritage Assets**

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

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



#### **10. S106 / Developer Contributions**

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

#### **11. Conclusion (The Planning Balance)**

This application proposal seeks to remove the temporary two-year restriction imposed by planning condition no.3 imposed on application reference 18/01851/FUL to make the permission



permanent. The application also seeks to vary condition 3 of planning consent W/06/00806/FUL to increase the number of children to be accommodated from 45 to 70 on a permanent basis.

It is submitted that the applicant has reasonably set out how this would not have a substantively adverse impact on neighbouring amenity or to highway safety interests. Officers have noted the existing difficulties in terms of both existing highway access and noise levels experienced from neighbouring properties and gardens; and, in recognition of the applicant's commitment to properly staff children and to limit the number of locations where children play in the rear grounds, this application is supported by officers.

Whilst there has been a recent noise complaint lodged with the Council's public protection team, there was no statutory noise nuisance found; and, moreover, the Environmental Health team within the local authority raise no objection to this application.

To ensure the premises do not result in creating future statutory noise nuisances, the nursery operatives must be burdened to keep noise levels under control, and the measures to do so were observed by the case officer when he visited no.6 and duly witnessed how the nursery operated. Subject to a series of planning conditions, the use of the site should be able to continue without causing significant levels of public nuisance or compromise highway safety interests.

**RECOMMENDATION: - Approve with the following conditions**

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

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

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

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

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

NOTE: There have been no changes to the proposal since the granting of the temporary 18/01851/FUL permission and therefore all approved plans and supporting documents are considered to have been rolled over from their original submission date.

3. The extended nursery premises hereby permitted shall not accommodate any more than 70 children at any one time.

REASON: In the interests of Highway Safety and neighbouring amenity

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

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

5. The extended nursery premises hereby permitted shall continue to comply with the details submitted in the Green Travel Plan as discharged on 3 July 2018. Future monitoring reviews of the Travel Plan should be submitted to the Local Planning Authority on request, together with any changes to the plan arising from those results.

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

6. The white line painting for the 6 on-site car parking spaces and the centre line at the site's intersection with the public footpath (i.e. on the nursery site land) shall be maintained in perpetuity.

REASON: In the interests of road safety.

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

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

**Town & Country Planning Act 1990**

**Notification of Full Planning**

**Application Reference Number: 18/01851/FUL**

<p><b>Agent</b> D M Mason Engineering Consultants Marlborough Road Old Town Swindon Wiltshire SN3 1NJ</p>	<p><b>Applicant</b> Mrs Lyn Ashton Barney Lodge Day Nursery 5 Westbury Road Warminster Wiltshire BA12 0AN</p>
<p><b>Particulars of Development: Change of use of part of building from residential to nursery uses (Part Retrospective) and Variation of Condition 3 of planning consent W/06/00806/FUL to change the permitted number of children from 45 to 70.</b></p>	
<p><b>At: Barney Lodge Day Nursery, 5 Westbury Road, Warminster, Wiltshire, BA12 0AN</b></p>	

**In pursuance of its powers under the above Act, the Council hereby grant PLANNING PERMISSION for the above development to be carried out in accordance with the application and plans submitted (listed below).**

**In accordance with paragraph 187 of the National Planning Policy Framework, Wiltshire Council has worked proactively to secure this development to improve the economic, social and environmental conditions of the area.**

**Subject to the following conditions:**

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

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

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

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

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

- 3 The use hereby permitted shall be discontinued on or before 31 May 2020 unless an extended timeframe is approved under a separate application.

REASON: In the interests of amenity.

NOTE: The approved use only applies to this planning application (45 to 70 children and the use of the managers flat as nursery accommodation). Should another application not be approved by 31 May 2020 the number of children and the managers flat shall revert back to the extant permissions as approved under applications W/06/00806/FUL and W/07/01302/FUL.

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

REASON: In the interests of Highway Safety and neighbouring amenity

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

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

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

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

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

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

REASON: In the interests of road safety.

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

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

**Signed**



**Tim Martienssen**  
**Director Economic Development and Planning**

**Dated: 30 May 2018**

Town and Country Planning Act 1990  
**PERMISSION FOR DEVELOPMENT**  
**NOTES**

1. **Other Necessary Consents.** This document only conveys permission for the proposed development under Part III of the Town and Country Planning Act 1990 and the applicant must also comply with all the byelaws, regulations and statutory provisions in force in the area and secure such other approvals and permissions as may be necessary under other parts of the Town and Country Planning Act 1990 or other legislation.

In particular the applicant is reminded of the following matters:-

- 1.1 the need in appropriate cases to obtain approval under Building Regulations. **(The Building Regulations may be applicable to this proposal. Please contact the Council's Building Control team before considering work on site);**
- 1.2 the need to obtain an appropriate order if the proposal involves the stopping up or diversion of a public right of way or other highway (including highway verge);
- 1.3 the need to obtain a separate "Listed Building Consent" to the demolition, alteration or extension of any listed building of architectural or historic interest;
- 1.4 the need to make any appropriate arrangements under the Highways Act 1980, in respect of any works within the limits of a highway. The address of the Highway Authority is County Hall, Trowbridge, BA14 8JD (It is the responsibility of the applicant to ascertain whether the proposed development affects any listed building or public right of way / other highway, including highway verge).

2. **Appeals.** If the applicant is aggrieved by the decision of the local planning authority to grant permission subject to conditions, he may appeal to the Secretary of State for the Environment in accordance with Section 78(1) of the Town and Country Planning Act 1990 within six months of the date of this decision. (Information and forms relating to the appeals process can be found at the Planning Portal - <http://www.planningportal.gov.uk/planning/appeals> ). The Secretary of State has the power to allow a longer period for the giving of a notice of appeal but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not required to entertain an appeal if it appears to him that permission of the proposed development could not have been so granted otherwise than subject to the conditions imposed by the local planning authority, having regard to the statutory requirements, to the provisions of the development order, and to any directions given under the order. He does not in practice refuse to entertain appeals solely because the decision of the Local Planning Authority was based on a direction given by him.

If the applicant wishes to have any further explanation of the reasons for the conditions imposed on this permission it will be given on request and a meeting arranged if necessary.

**Appeals where an enforcement notice has been issued.** Article 33 (2) (b) & (c) of the Town and Country Planning (Development Management Procedure) (England) Order 2010, provides that a shorter time limit to appeal to the Secretary of State shall apply where an enforcement notice has been served, as follows:-

'Type A appeal', 28 days from— the date of the notice of the decision or determination giving rise to the appeal; or

expiry of the specified period;

'Type B appeal', 28 days from the date on which the enforcement notice is served;

['Type A appeal' means an appeal in respect of an application relating to land and development which are the same or substantially the same as the land and development in respect of which an enforcement notice—

(a) was served no earlier than 2 years before the application is made;

(b) was served before— (i) the date of the notice of the decision or determination giving rise to the appeal; or (ii) the expiry of the specified period; and

(c) is not withdrawn before the expiry of the period of 28 days from the date specified in sub-paragraph (b);

'Type B appeal' means an appeal in respect of an application relating to land and development which

are the same or substantially the same as the land and development in respect of which an enforcement notice—

(a) is served on or after— (i) the date of the notice of the decision or determination giving rise to the appeal, or (ii) the expiry of the specified period;

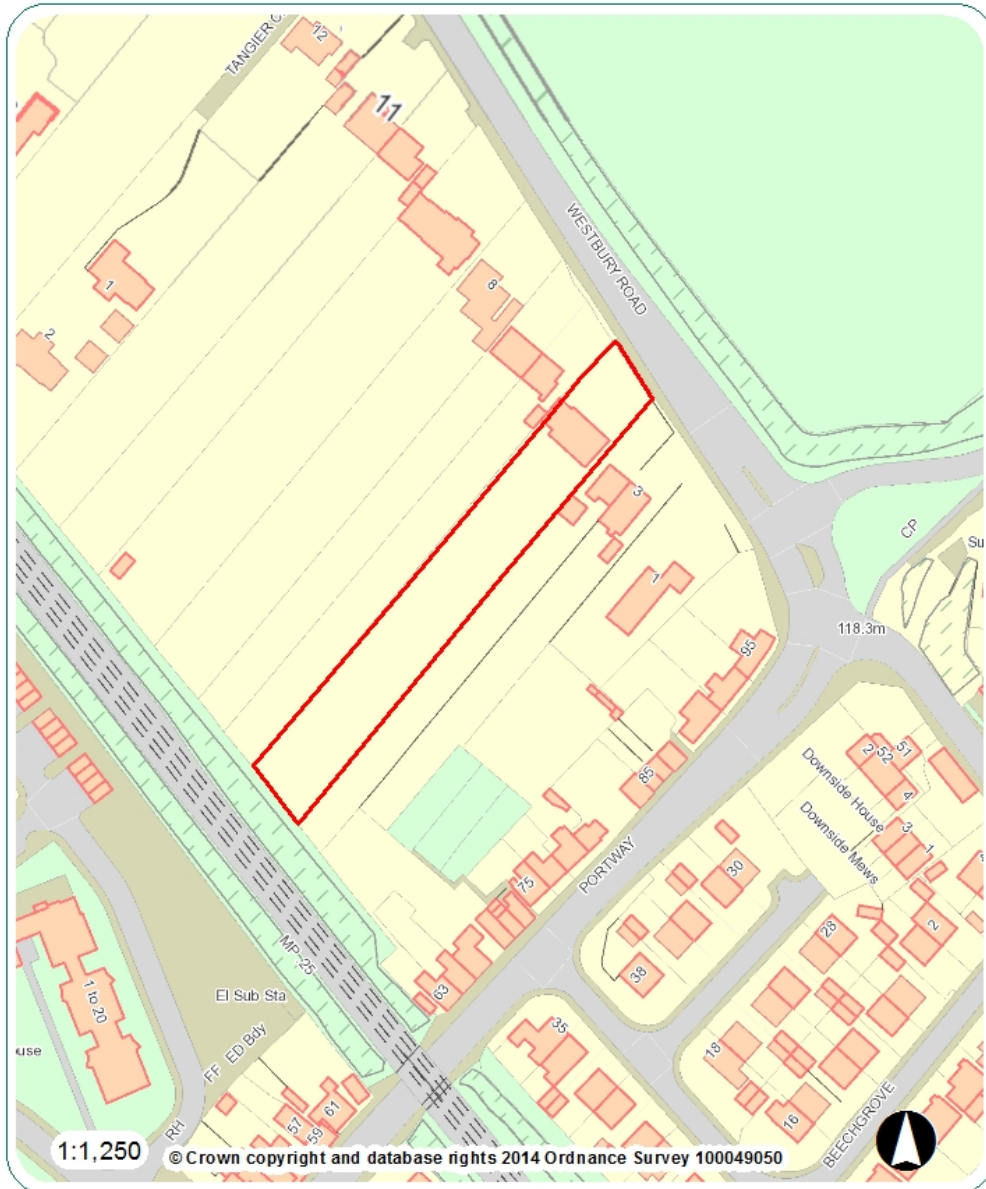
(b) is served earlier than 28 days before the expiry of the time limit specified— (i) in the case of a householder appeal, in paragraph (2)(a) of the Order; or (ii) in any other case, in paragraph (2)(d) of the Order; and

(c) is not withdrawn before the expiry of the period of 28 days from the date on which the enforcement notice is served.]”

3. **Purchase Notices.** If permission to develop land is granted subject to conditions, whether by the local planning authority or by the Secretary of State for Communities and Local Government, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, he may serve on the Council a purchase notice requiring the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.
4. **Compensation.** In certain circumstances, a claim may be made against the local planning authority for compensation, where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in Section 114 of the Town and Country Planning Act 1990.
5. **Discharge of Conditions.** There is now a fee for applications to discharge planning conditions, details of which are set out on the Council’s website. The fee is payable per request and not per condition. The fee must be paid when the request is made, and cannot be received retrospectively. It does not matter when the permission was granted as long as it remains extant. The request, identifying the permission (with reference number) and the conditions concerned, should be made by using the 1 APP forms which are available on the Councils Website or the Planning Portal.  
  
You are advised that the as local planning authority has up to 12 weeks to consider the request, that you apply well in advance of when you intend to start work
6. **Street naming and numbering.** If this permission relates to the creation of new dwellings/commercial units or conversion of buildings into dwellings/commercial units, you are required to apply for street naming and numbering to ensure that the new buildings are allocated accurate addresses and registered with the Royal Mail. Relevant application forms, guidance notes and fee sheets are available to download at <http://www.wiltshire.gov.uk/planninganddevelopment/streetnaming> or you can contact the Address Information Team on 01225 770508 or by email at [streetnaming@wiltshire.gov.uk](mailto:streetnaming@wiltshire.gov.uk)
7. **Informative** There is a legal duty of care incumbent on the customer and contractor that all commercial waste generated as a result of the works hereby authorised is safely contained, transported and disposed of lawfully in line with the Environmental Protection Act 1990 and Environmental Permitting Regulations 2016 (as well as any other related legislation). Failing to do so can lead to individuals or organisations being prosecuted for unlawful waste management.







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## REPORT FOR WESTERN AREA PLANNING COMMITTEE

<b>Date of Meeting</b>	23 <sup>rd</sup> October 2019
<b>Application Number</b>	19/02724/FUL
<b>Site Address</b>	No.212 The Common Holt BA14 6QN
<b>Proposal</b>	Proposed two-storey extension and replacement roof to rear and associated internal works.
<b>Applicant</b>	Mr & Mrs S Thornton-Norris
<b>Town/Parish Council</b>	HOLT
<b>Electoral Division</b>	Cllr. Trevor Carbin
<b>Grid Ref</b>	386681 162310
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Jemma Foster

### Reason for the application being considered by Committee

Cllr Carbin requested that should officers be minded to support this application, it should be brought before the elected members of the area planning committee to consider the following matters:

- The scale of the development
- The relationship the proposal would have with adjacent properties.

#### 1. Purpose of Report

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

#### 2. Report Summary

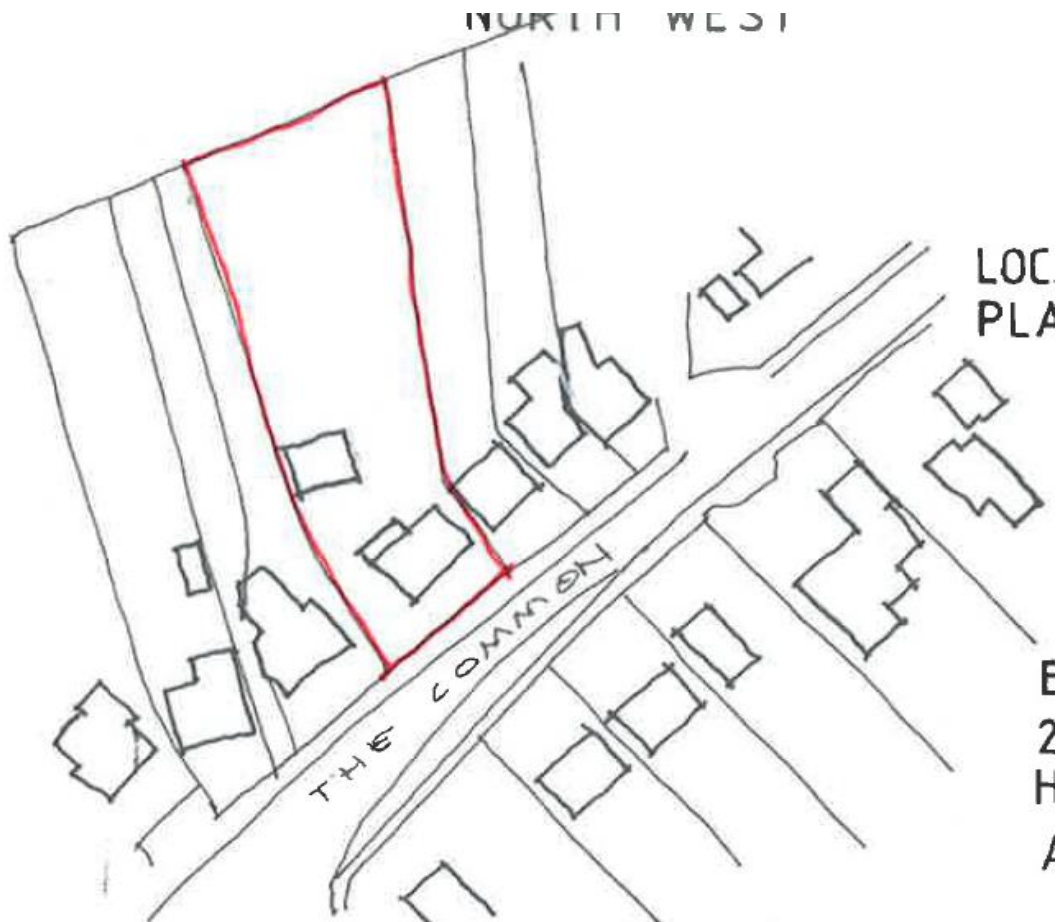
The main issues discussed in this report are the *principle of development, design issues, the impact on the immediate area, impact on amenity, and highway and access considerations.*

#### 3. Site Description

The site is located within the Limits of Development of Holt, which is a designated large village as defined within the adopted Wiltshire Core Strategy. The application site is accessed off the north-west side of the B3107, the main arterial road running through the village.

The area surrounding the site is predominantly defined by two storey detached Victorian dwellings set back from the road with some being elevated above the road level. There is a mix of styles and types of properties along The Common ranging from bungalows to detached two storey dwellings which are finished in a variety of materials. The immediate site context is characterised by property wall elevations being primarily constructed from bath stone although there are some examples of render and brick in the vicinity. Whilst the roof of the host property is finished in slate, there are examples of pan-tiled and concrete tiled roofs nearby.

To the rear of the properties within the immediate vicinity of the site, there are numerous extensions finished in bath stone, re-constituted bath stone blocks, timber cladding and others in render. The host property benefits from a relatively large rear garden which is illustrated below.



The application site is a detached, double fronted period property elevated above the road level with the driveway running along the side of the property leading to a double flat roofed garage located within the rear garden. The side wall of the garage shares a boundary/ party wall with the adjacent dwelling, number 211 The Common.



The existing dwelling is a two-storey building with an asymmetrical roof design. Fronting the highway, the property has a traditional two storey façade, however to the rear, the property has an extended rear roof creating a one and half storey façade – as illustrated below. The single storey lean-to rear addition shown above is also not original.



The dwelling is set at a slight angle to the road and has a long rear garden which replicates the width of the dwelling and driveway combined and runs in a northerly direction away from the dwelling, which results in the garden running behind the neighbours' property (No. 213). The rear garden is laid to lawn with a number of mature trees. The boundaries of the site are defined by close boarded fences at approximately 2 metres in height.

The property is not a listed building and is located outside of the Holt Conservation Area.

#### **4. Property Planning History**

W/82/00638/HIS Alteration, improvements and erection of double garage – Approved with Conditions 20.07.1982

W/97/00240/OUT Erection of three houses and garages at No's 211-212 The Common Holt – Application Withdrawn 08.05.1997

W/97/01210/OUT Erection of two detached houses with two single garages plus one single and one double garage together with associated access drive on land to the rear of No's 211/212 The Common, Holt – Application Refused 13.11.1997

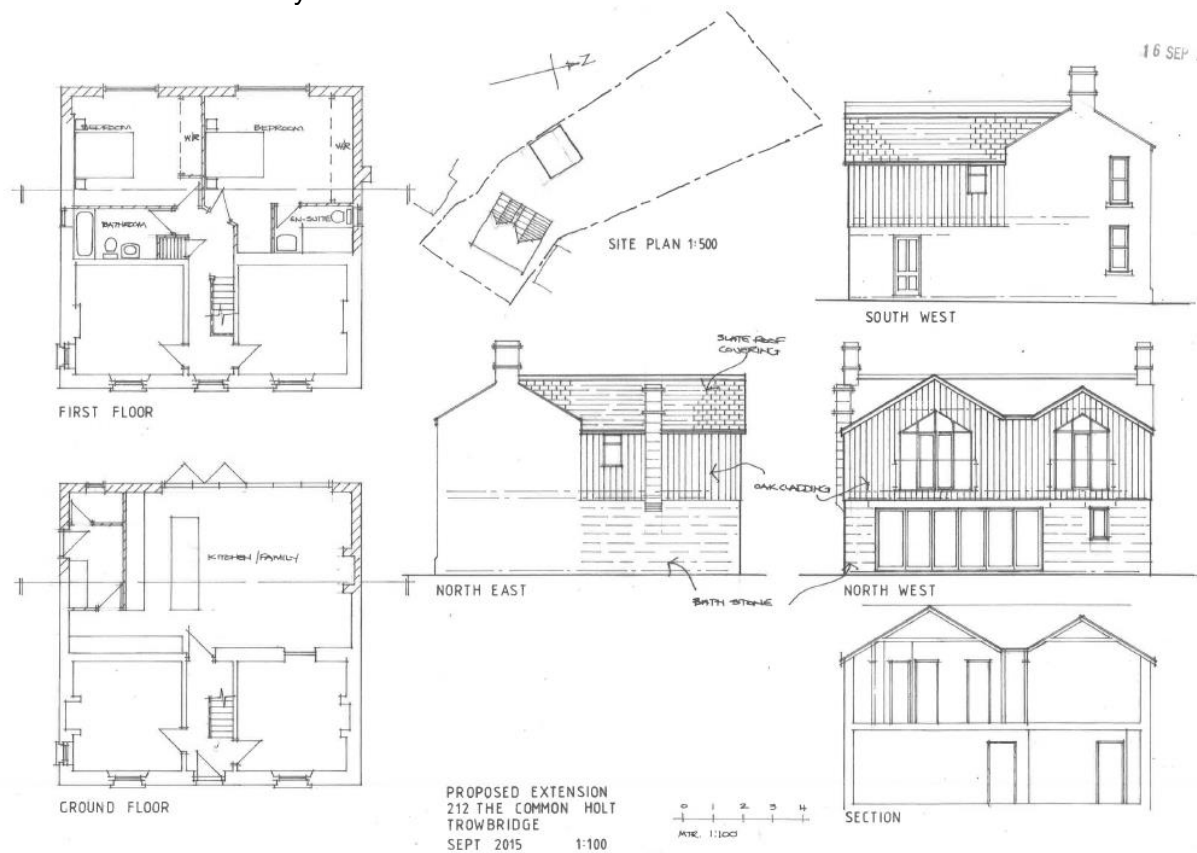
15/09224/FUL Two storey rear extension - Approved at Committee 04.02.2016



In 2015 the Western Area Planning Committee granted permission for a two-storey rear extension which would replace an existing single storey lean-to and extends it by approximately 50cm beyond the existing footprint. The approved application would create a two-storey element that would extend approximately 2.8 metres and run the width of the property.

The extension would have two gables perpendicular to the main roofline; one with a ridge height that matches the main roof and one slightly lower. The extension would be finished using bath stone at ground floor level and oak cladding around the first floor with slate roof tiles. The first-floor windows would be large with a "Juliet" balcony serving the enlarged bedrooms to the rear. The overall number of bedrooms within the property were not to be increased as part of this proposal.

Below is an extract of the elevation, floor and location plans for the proposed extension granted permission on 3 February 2016.



Since planning permission was given for the above proposal, the property has been sold and the 2015 application was not implemented; and, the consent is now time expired.

## 5. The Proposal

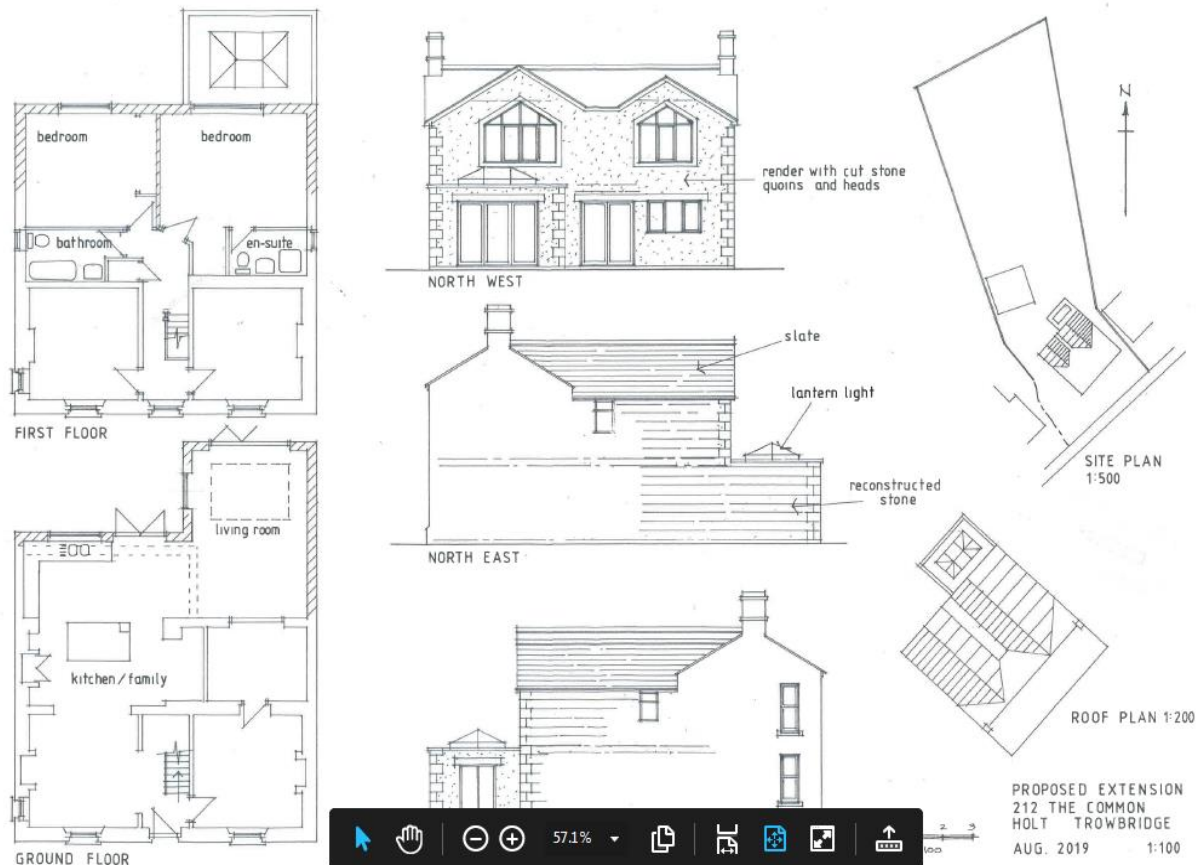
As far as this present application is concerned; and, following negotiated revisions which were submitted in early September, the applicant proposes to erect a two-storey extension with the same dimensions as the previously approved 2015 application with the addition of a single storey rear extension. The initial proposed alterations to the existing garage were also deleted from the application.

At the ground floor level, the existing studio would become part of the family/kitchen area and the new space would be converted to a living room. At first floor level, the new space would provide space for a new bedroom and en-suite. The applicant would also undertake internal

alterations comprising the provision of a relocated bathroom, landing and access to the new bedroom. The property would remain as a 4-bed dwelling.

The applicant proposes to use reconstructed stone for the side elevations and render on the rear elevation under a slate roof which differs from the previously approved application.

An extract of the proposed plans is illustrated below:



## 6. Local Planning Policy

The adopted Wiltshire Core Strategy (2015): CP1 Settlement Strategy; CP2 Delivery Strategy; CP7 Bradford on Avon Community Area (Holt); CP57 Ensuring High Quality Design and Place Shaping; CP61 Transport and Development; CP64 Demand Management.

The Wiltshire Car Parking Strategy

The made Holt Neighbourhood Plan (2016)

The National Planning Policy Framework (NPPF) (2019) and Planning Practice Guidance

## 7. Summary of consultation responses

Holt Parish Council: No comments.

Wiltshire Council Highways Department: No objections. The property would remain a 4-bed dwelling and the existing parking arrangements and vehicle access would not be altered as part of this application, I therefore wish to raise no highway objection.

## **8. Publicity**

A site notice was displayed on the telegraph pole at the front of the dwelling on the 11<sup>th</sup> September 2019 and the immediate neighbours were written to with information regarding the amended application. As a result, 3 letters of objection were received on the original plans and the same three neighbours submitted objections to the amended plans – which can be summarised as follows:

### Principle of Development

- Infill business development in a residential area is inappropriate - this should be a residential to commercial application.
- One business is already being run from 212 The Common, with frequent customers.
- Plans do not accurately detail the current layout.
- The block plan is incorrect and shows the plot larger than it is; 211 has rear access and has a rear extension and conservatory which is not shown on the plans.
- The neighbourhood plan (particularly H3.1) does not advocate this type of development

### Design

- The size and scale of the proposed house extension is not in keeping with the Victorian stock along 'The Common'.
- Building proposal is so large and will visually impact the immediate countryside and will be overbearing and will not protect village life.
- The extension will measure 3.3 metres to the rear and 4 metres in width to a height of 6 metres (the same as the current ridge height). This is 30% larger than the original dwelling.
- The materials used will have the extension a hard look and will not blend in with the existing housing stock
- The roofline is changing so much that the height of the roof will take away all of our natural light.

### Neighbouring Amenity

- Daylight and privacy for nos. 209, 210, 211 and 213 will be compromised.
- Two storey office block will cause lack of privacy, overshadow neighbouring gardens.
- The garage is built on the boundary, the increase in height from 2.6 metres to 5.5 metres along with an office at first floor will be overbearing and cause a loss of light and privacy.
- A window on the south elevation will overlook my bedroom window
- The large new windows on the north west elevation at first floor will add light to the property but will take away our right to privacy and quiet enjoyment of my garden

### Highways

- One car parked on the road causes traffic congestion – dangerous at rush hour and school times - another business being run from home will significantly impact the parking.
- Request a visit from the Case Officer to the application.
- The Holt Neighbourhood Plan does not allow for backland development with unsuitable access.
- The extension due to the size, mass, bulk, height and close proximity will result in an overbearing, overlooking and loss of privacy.

### Other Matters

- A tree house is also being built which looks directly into my house.
- The plans are not professional



## 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.

9.1.1 Adopted WCS Policies CP1 and CP2 set out the Council's strategic plan in terms of targeting and delivering development in sustainable locations. This proposed development is classed as a minor householder application located within the established residential curtilage of the existing dwelling within the village of Holt.

9.1.2 There is no in principle objection to the proposed development.

### 9.2 Design Issues and Impact upon the Immediate Area

Core Policy 57 of the Wiltshire Core Strategy states that “[a] high standard of design is required in all new developments, including extensions, alterations, and changes of use of existing buildings. Development is expected to create a strong sense of place through drawing on the local context and being complementary to the locality.”

9.2.1 Policy H2.1 of the Holt NP requires “all development to demonstrate good quality design... and respect the character and appearance of the surrounding area”.

9.2.2 The proposed extension would be a complimentary modest addition to the existing detached property. At the time of the 2015 application, officers argued that the two-storey rear addition would not represent a disproportionate extension to the dwelling – which was accepted by the committee in February 2016. Whilst this fresh development proposal would include provision of a single storey rear extension, it would not be out of keeping, constitute as overdevelopment or be harmful.

9.2.3 The proposed two-storey extension would be appropriately finished with reconstructed stone on the side elevations and render on the rear elevation with a slated roof. It would be appropriate and necessary to secure a sample of the reconstructed stone and confirmed render – which can be imposed by a suspensive planning condition along with conditioning the slate material to ensure it is all appropriate to its setting. The proposed use of materials have been cited as a concern through the received objection letters. However, officers are satisfied that the proposed use of materials would not result in any harm. It is also necessary to acknowledge that there was a mix of materials for the previously approved extensions which included the use of timber and render. The proposed use of reconstructed stone would be similar to the existing stone and there would be some design betterment when compared to the previously approved application which allowed for natural stone at ground floor and timber at first floor level.

9.2.4 Concerns have been raised regarding the proposed ‘large’ windows on the rear elevation. These windows would however be smaller than the previously approved windows and the plans also comprise the removal of the previously approved Juliet balcony. The windows although materially different to the front fenestration, are considered acceptable in design terms and there would be no substantive harm to immediate neighbours.

9.2.5 The proposed two storey and single storey rear extension would acceptably juxtapose with the existing dwelling. The proposed extension would be a subservient rear extension screened from the road and would not harm the character of the area.

### 9.3 Residential Amenity

The proposed two-storey extension would not adversely impact upon neighbouring amenity in the form of overlooking, overshadowing or overbearing as it is exactly the same as that previously approved. The February 2016 committee report for the previously approved application (pursuant to the two-storey extension) stated the following which equally applies to this application:

9.3.1 The two properties located either side of the proposed extension are No.211 and No.213. Property No. 210 forms a semidetached unit to No.211 and lies to the southwest of this dwelling. Property No.209 lies again to the southwest of No.210. As described above, the layout of the gardens along this street mean that the gardens start to run behind those of the neighbouring properties, for example the garden of No.209 runs behind No.210; and, the garden to No.210 runs behind No.211 and so on (reference site location plans below).



OS Plan down load from SAMS



Extract from applicants Site Location Plan

9.3.2 The proposed extension would project off the rear of No.212 and would enhance the size of the existing bedrooms that face the rear garden at present. Directly behind the host dwelling is an existing large single storey double garage which would provide a degree of screening from any potential overlooking from the rear elevation of No.212 over any neighbouring properties gardens. No. 209 is displaced from the application site by two dwellings and No. 210 is displaced by one dwelling. As such, the potential for any degree of impact is minimal. This is equally the case for the rear amenity space of No.210. It is therefore considered that the concerns raised about loss of privacy to these two properties amenity space, would be inconsequential and it would not substantiate a robust reason for refusal.

9.3.3 Following a direct line of sight from the rear elevation of the proposed extension to the boundary of No.211, there would be a distance of approximately 15.5 metres. Bearing in mind that there is a large double garage directly in between the rear elevation and site boundary, it is again argued that there would not be a significant detrimental impact on the privacy of the neighbouring garden to justify a refusal. With regards to garden space of No.213, this area of land angles away from the proposed extension and there would be no direct overlooking from the proposed development into the amenity area of that property.

9.3.4 No. 212 has three windows facing out over the applicant's garden serving two bedrooms and a bathroom. With this existing arrangement in mind, officers submit that the proposed

development would not result in a situation substantially different to what exists at present. It is therefore concluded that overlooking from the rear elevation is not grounds for refusal.

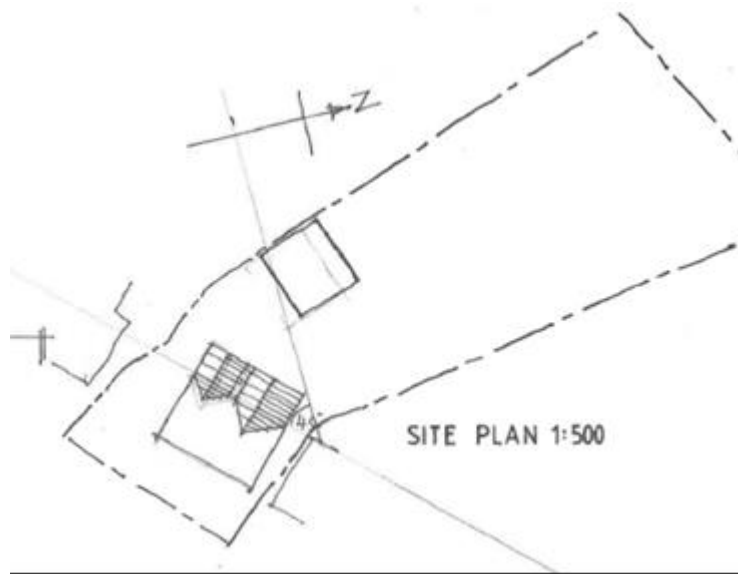
9.3.5 Turning to the side elevations, the proposal would create a new window in either side elevation for two bathrooms. Both of these windows are recommended to be conditioned to be obscure glazed. The window to the north-east elevation, facing No.213, would be directly opposite the one and half storey element to the rear of No.213 and would not create any overlooking of the neighbouring property or its amenity area. Turning to the elevation facing No.211, there is existing first floor bedroom window. Also, there are existing windows and openings facing towards the application property including at first floor level overlooking into the amenity area of the applicants dwelling.



*A view towards No. 211 (in the middle ground of the photo)*

9.3.6 Officers duly submit that the proposed extension would not create any greater level of harm compared to what exists at present. In response to the overbearing concerns which have also been raised by neighbours, officers report that the separation distances between the host property and proposed extension when compared to the neighbouring properties (No's 209 and No 210) and acceptable and there would be no significant impact to warrant a refusal.

9.3.7 The proposed two-storey extension that would site adjacent to No.213 would create the biggest change to the built form. Planning guidance offers a general rule of thumb to assist the appraisal and determination of these types of applications to specifically help understand the potential impacts on neighbouring properties. With reference to the 45-degree rule, the following plan illustrates how by applying the 45-degree test to the neighbouring property windows at No.213 the proposed development would not compromise the rule of thumb and officers are satisfied that the rear extension would not result in harm to the immediate neighbouring property.



**Plan showing the 45-degree rule**

9.3.8 With regards to the potential for impact on No.211, whilst the owner's outlook would be altered by having an extended rear structure built off the host property facing their side door, the outlook change would be largely appreciated within a small part of the neighbouring garden. It is also important to fully appreciate that there is no right to a view across third party land and officers would respectfully argue that within urban locations such as towns and villages, it is a well-established characteristic for some properties being located in relatively close proximity to neighbouring dwellings. This application does not propose to close a gap between properties; and, it is important to record that the primary openings of the dwelling at No 211 are found to the front and rear elevations and would remain unaffected by the proposed development.

9.3.9 In regard to overshadowing concerns, the orientation of the dwelling and the neighbouring properties, there already exists at present a degree of overshadowing of the amenities of the neighbours and site. The two-storey extension would result in a minimal increased overshadowing for a certain part of the day at certain times of the year. It would not however be significant, and nor would it adversely harm the enjoyment of the amenities or facilities of the surrounding properties to justify a refusal. Officers have given due regard to garden orientation and the separation distances between the proposed extension and the site boundaries (whilst acknowledging the slope of the roofs project away from the boundaries); and officers duly submit that the proposed extension would not result in an oppressive form of development and nor would it cause adverse overbearing impacts on the occupiers of the neighbouring dwellings.

9.3.10 The proposed single storey extension would not overlook, overshadow or overbear neighbouring properties to their detriment. The proposal is therefore considered to comply with CP57.

#### 9.4 Other Matters

The professional quality of the plans is not something that can be taken into consideration when assessing the application. Officers are satisfied that the plans are sufficiently clear and detailed to enable an informed decision to be made on this application.

9.4.1 Concerns have been raised regarding the plans being incorrect – namely the block plan failing to include extensions on neighbouring properties. In response to this, members are advised that the case officer has visited the site and is aware of the existing relationships the host property has with neighbouring properties and the juxtaposition with completed extensions; and this report sets out the officers full and an appropriate assessment.

9.4.2 Concerns have also been raised regarding a tree house being constructed in the garden and that the allegation that there is a business being run from the host property. The tree house does not form part of this application submission; and as such, it would be unreasonable to take it into consideration when making a determination on this application. Any concerns regarding a business being run from the property that would result in a change of use or any other unauthorised works at the property are separate matters that require an investigation by the planning enforcement team.

9.4.3 Policy H3.1 has been cited by an objector as to how the proposal fails to comply with the Neighbourhood Plan. Policy H3.1 is however a policy that applies to infill housing. This application is clearly not an infill house proposal and basing a refusal on such a policy would be unreasonable.

## **10 Conclusion (The Planning Balance)**

The proposal would represent a modest extension to an existing dwelling that would be built with appropriate materials that not have an adverse impact upon neighbouring amenity. As such it is recommended for approval.

## **11 RECOMMENDATION: APPROVE SUBJECT TO THE FOLLOWING CONDITIONS:**

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

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

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

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

3. The slate to be used in the development hereby permitted shall match the existing building in terms of their material, colour, texture, profile and pattern of laying.

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

4. Before the development hereby permitted is first occupied the windows in the North East elevation and South West Elevation serving the bathroom and en-suite shall be glazed with obscure glazing only and to an obscurity level of no less than level 3; and the windows shall be maintained with obscure glazing in perpetuity.

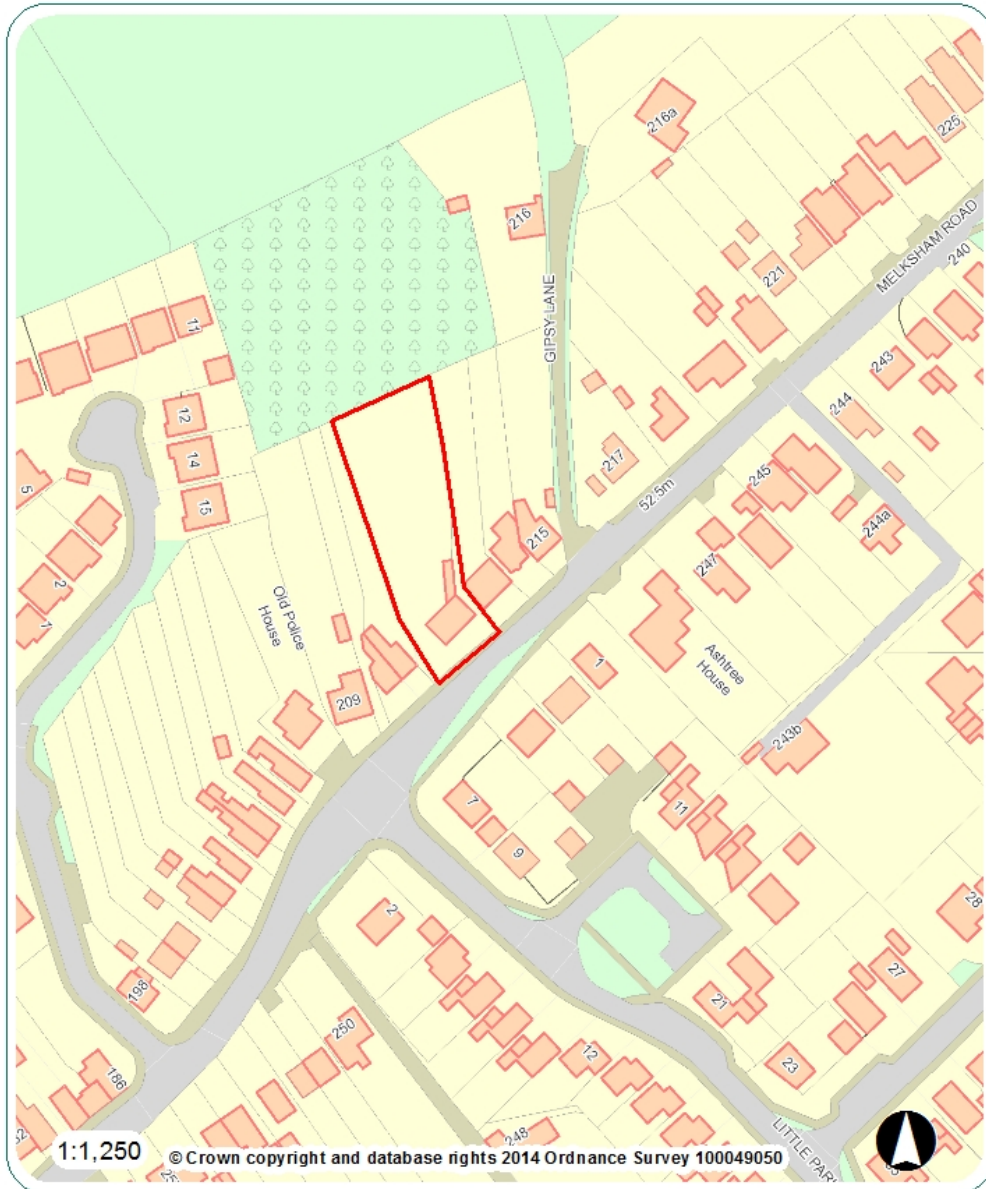
REASON: In the interests of residential amenity and privacy.

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

Plans annotated as Existing, Proposed Extension received by the Local Planning Authority on 3rd September 2019.

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





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## REPORT FOR WESTERN AREA PLANNING COMMITTEE

<b>Date of Meeting</b>	23 October 2019
<b>Application Number</b>	19/07875/FUL
<b>Site Address</b>	8 Fulmar Close Bowerhill SN12 6XU
<b>Proposal</b>	Retrospective application for garage roof works (material variation to approved application 16/02681/FUL)
<b>Applicant</b>	Mr Omar Abdulshakour
<b>Town/Parish Council</b>	MELKSHAM WITHOUT
<b>Electoral Division</b>	MELKSHAM WITHOUT SOUTH
<b>Grid Ref</b>	391735 162252
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Selina Parker-Miles

### Reason for the application being considered by Committee:

Cllr Phil Alford requested that should officers be minded to approve this application, it should be brought before the elected members of the area planning committee to determine. Cllr Alford identifies the following for the elected members to consider:

The scale of the development and the disconnect with the permission granted by the planning inspector

### 1. Purpose of Report

Melksham Without Town Council –comments were received on 10/09/2019

Neighbourhood responses – In total, 6 letters of representation (3 supportive letters and 3 letters of objection were received) which are summarised within section 8.

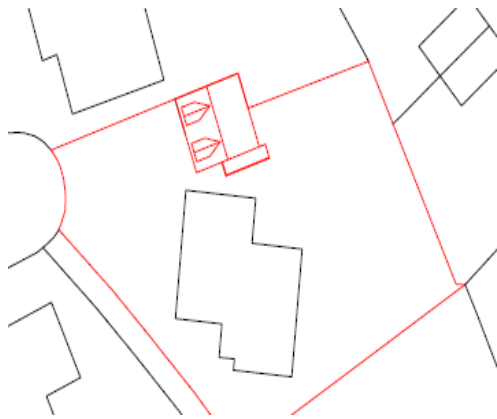
### 2. Report Summary

The main issues to consider with this application are:

- The impact on the character and appearance of the host dwelling and wider area.
- The impact on neighbour amenity

### 3. Site Description

The application site relates to a residential property located at the south eastern end of the Fulmar Close cul-de-sac in Bowerhill. The property comprises a two-storey detached dwelling constructed of red brickwork under a concrete profile tiled roof. The detached single storey detached garage with ancillary accommodation, which is the subject building for this application, is located to the north of the dwelling house and is illustrated in the block plan and site photograph on the following page. An area of hardstanding is located to the property frontage with the garden to the rear.



#### 4. Planning History

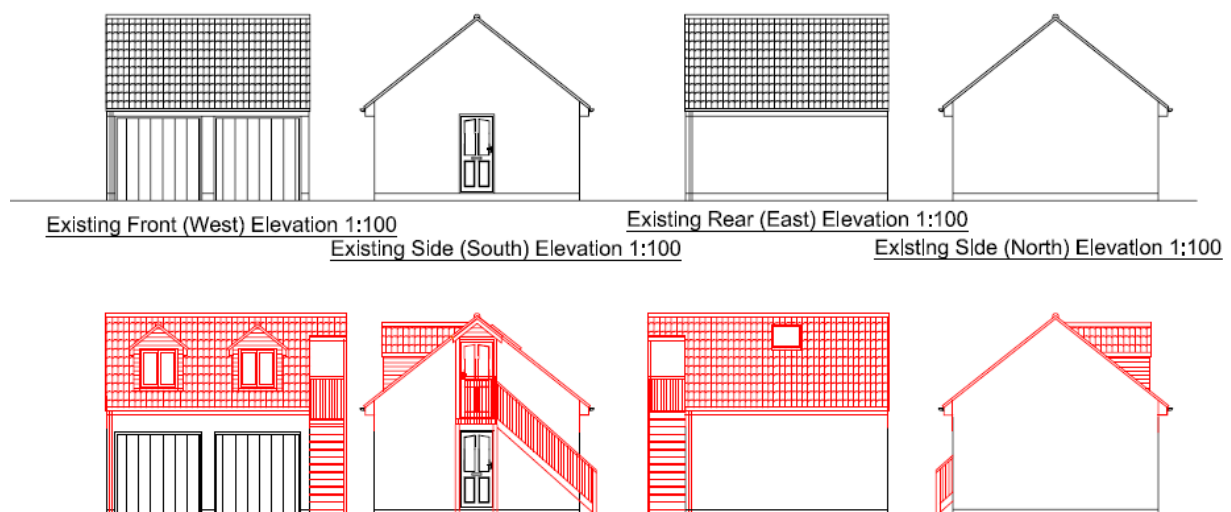
W/93/00156/FUL – Bedroom and Lounge Extension – **Approved 18 March 1993**

W/02/00610/FUL – Extension – **Approved 8 June 2002**

16/02681/FUL – Proposed new roof to detached garage with ancillary accommodation – **Refused contrary to officer recommendation at WAPC on 29 June 2016** for the following reason:

*“The proposal by virtue of its proportion, form and scale would result in an overbearing and dominant form of development, which would result in the loss of daylight and be overshadowing to the detriment of the neighbour’s amenity at 7 Fulmar Close. This would be contrary to Policy CP57 of the adopted Wiltshire Core Strategy”.*

**The above refusal decision was successfully appealed (by APP/Y3940/D/16/3156898) on 6 December 2016. A copy of the pre-existing 2016 building and the development proposals are shown in elevation form below:**

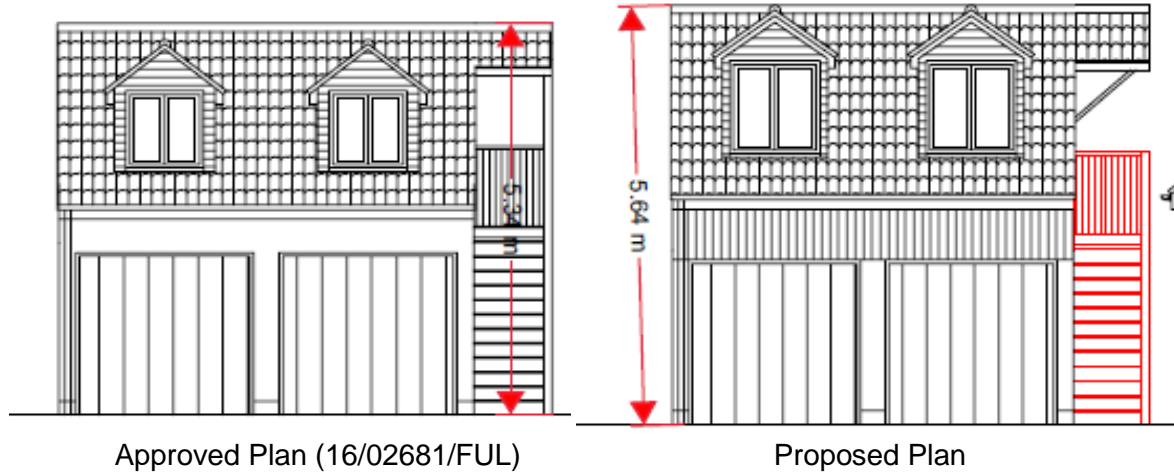


**Copies of the 2016 committee report and appeal decision are appended to this report for reference purposes.**

#### 4. The Proposal

This application seeks retrospective permission to regularise a material variation to the detached garage which has been constructed 30cm higher than what was allowed on appeal in

2016 (i.e. 5.64m compared to 5.34m). The difference in roof height between what was allowed on appeal and what has been built as illustrated below. The 16/02681/FUL approved elevation is shown below left and the proposed plan requiring member determination is shown below right along with the notation showing the additional 30cm height and the enlarged dormers. It should be noted that at the time of the officer site visit, the external staircase (which is outlined in red below for illustrative purposes) had still not been constructed.



## 6. Local Planning Policy

Local Context: Wiltshire Core Strategy (the development plan) relevant policies – CP15 & CP57

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

## 7. Summary of Consultation Responses

Melksham Without Parish Council: Objects: The Parish Council has been mindful of the 2016 allowed appeal and the conditions imposed by the Planning Inspector; namely that the roof would be raised by 450mm, the equivalent of approximately 7 courses of brickwork, and that the development shall be carried out in accordance with plan AH2016/24 dated 22<sup>nd</sup> May 2016.

It is argued that the completed development has a detrimental effect on the amenity of the neighbours to the rear of No.8 Fulmar Close (and it is recorded that at the Parish Council meeting when this application was considered, the residents of 3 properties to rear of No. 8, Fulmar Close attended and voiced their objections).

This development has not been constructed in accordance with the approved plans or the accompanying planning conditions, and it is felt that approval of this retrospective plan would be detrimental to the integrity of the planning process.

## 8. Publicity

The public consultation exercise comprised individual letters being sent to neighbours and the display of a site notice. **In total, 3 letters of objection have been received which in summary raise the following issues:**

- The development is in direct breach of the Planning Inspectorate recommendation and is not in accordance with the approved plans
- Approval of this retrospective plan would be detrimental to the integrity of the planning process.
- The development that has been constructed has a detrimental effect/loss of light on the amenity of the neighbours to the rear of 8, Fulmar Close

- The existing garage adversely impacts upon the outlook from the properties to the rear, cause loss of light, overshadowing and loss of privacy.
- The approved window is incorrectly positioned
- Detrimental visual impact on the surrounding area.
- Potential of overlooking to the properties at the rear from the approved staircase
- The raised roof height is in breach of the Planning Inspectorate approved height and does not sit as a subservient addition to the host dwelling.

**3 letters of support have also been received which in summary raise the following comments:**

- The garage in its built form does not block the sunlight
- The garage is in keeping with the surrounding area
- The existing build does not impede on the property directly to the rear
- The build is of a good standard of design/ not offensive or intrusive
- The proposal is not considered to be excessive in height

## **9. Planning Considerations**

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

9.2 The Principle of Development: The application site is located within the established limits of development where there is a presumption in favour of sustainable development.

9.3 Impact on the character and appearance of the host dwelling and surrounding area: The detached garage within the curtilage of No. 8 Fulmar Close has been increased in height by 30cm (when compared to the plan allowed at appeal in 2016) whilst retaining the same footprint. Officers are satisfied that this material deviation from what was previously allowed still represents as a modest subservient alteration that would neither detract from the host dwelling or wider area.

9.4 The modest increase to the two dormers is also considered a sympathetic revision, utilising a satisfactory design and matching materials to the existing dwelling. And as identified by the Planning Inspector (who visited the site on 29.11.2016) due to the set-back position of the roof extension there would be no harm to the wider character or appearance of the area.

9.5 The partially completed garage measures 5.64m (in height) x 5.35 (in width) x 5.4m (in length). As well as the material variation to the dormers and staircase (which has not yet been constructed). The applicant still proposes to have a roof light in the eastern rear elevation which raises no officer concerns.

9.6 Officers submit that this retrospective proposal has limited impact on the character of the host dwelling or cul-de-sac or does not cause harm or result in a policy conflict.

9.7 Impact on neighbour amenity: In 2016, the planning case officer and appointed planning inspector concluded that the previously proposed 45cm increased height to the garage would result in some impact to the occupiers of 7 Fulmar Close in terms of some limited loss of direct sunlight from part of the neighbouring garden and conservatory at No. 7 – however then effect would be “*relatively small*”. The development would not substantively block sunlight to No.7 (or any other neighbouring property, although it was observed that there may be some overshadowing for a limited period during late winter afternoons. The inspector’s balanced appraisal in allowing the 2016 appeal centred on appreciating there would be some impacts, but

the impacts would be modest to negligible and that the neighbouring residents would maintain a “good standard of living conditions” – which is how planning inspectors refer to all forms of residential amenity.

9.8 Officers and the planning inspector also found that the living conditions of the adjacent occupiers in houses to the rear of No.8 along Belvedere Road would not be significantly affected. Mindful of the planning inspector’s assessment of the 2016 development (which for the record what have still been extant had the applicant not proceeded to undertake material variations), as the decision maker, members are advised that the additional 30cm and the minor fenestration alterations (along with the yet to be built external staircase) would not result in substantive harm to neighbouring amenities or their living standards.



9.9 Officers accept that the owner’s outlook from the side of the conservatory and patio area of the neighbouring property at No.7 would be altered by having a larger structure on its shared boundary with no. 8, but it is important to acknowledge that the outlook was previously impeded to a degree by the original garage building and in addition, the planning inspector concluded in December 2016 that a 45cm increase would not result in harm to warrant a refusal and officers submit that with respect to the completed additional 30cm uplift, the impacts would be nominal that would not warrant a refusal.

9.10 The increased dormer windows inserted into the western roof elevation do not result in harmful overlooking or loss of privacy to the immediate neighbours given the existing arrangement of windows and separation distances between the subject building and neighbouring properties - as illustrated in the site photographed block plan which is reproduced within section 3 of this report. Furthermore, given their height, scale and positioning on the front roof slope, there would be no significant loss of light and overshadowing to no. 7 Fulmar Close.

9.11 The proposed roof light to the rear roof slope of the building would be positioned 1.85m above the internal floor level therefore any overlooking concerns affecting neighbouring properties would be satisfactorily restricted.

9.12 The proposed upper floor accommodation would be accessed via an external staircase and door positioned on the garage’s southern elevation. The staircase would be positioned approximately 10m from the shared boundary with no. 34 and 36 Belvedere Road, with an additional 10-12m to the nearest habitable rooms. This separation is considered acceptable

and meets the standard expected 21m separation between development and neighbouring habitable rooms and on this basis, officers are satisfied that it would not cause unacceptable overlooking or loss of privacy.

9.13 This application seeks retrospective permission for garage roof works. The application footprint is identical to the previous scheme and all other considerations have been previously appraised and subsequently allowed at appeal. For the reasons set out above, it is considered that the proposal would cause no significant harm and whilst officers accept that the development would result in some impacts, they would not be substantial to warrant the refusal of planning permission.

## **10. Conclusion (The Planning Balance)**

Application reference 16/02681/FUL was allowed on appeal following the Council's decision to refuse permission, contrary to officer recommendation pursuant to extending the existing detached garage at No. 89 Fulmar Close by 45cm and to construct two dormer windows and insert a rooflight within the roof plane. The applicant has however extended the garage by a further 30cm beyond what was allowed on appeal. Instead of being 5.34m, it is 5.64m. Whilst officers share the parish council and local concerns expressed about the retrospective nature of this application, it must be subject to the same fair assessment of the material considerations.

For the reasons set out above, the proposal is considered to comply with CP57, the WCS and NPPF, having due regard to the visual impact on the host dwelling and wider area and the impact on the amenities / living standards of the occupiers of neighbouring properties; and as such, officers recommend that members approve the application subject to conditions.

### **RECOMMENDATION: Approve with conditions**

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

Existing and Proposed Plans - Drawing No AH2016/24 Sheet 1 of 1 dated 09.08.2019

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

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

REASON: In the interests of residential amenity and privacy.

3. The development hereby permitted shall not be used at any time other than for purposes ancillary to the residential use of the main dwelling, known as No. 8 Fulmar Close and it shall remain within the same planning unit as the main dwelling.

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



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## Appeal Decision

Site visit made on 29 November 2016

**by Jacqueline Wilkinson Reg. Architect IHBC**

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

**Decision date: 6 December 2016**

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**Appeal Ref: APP/Y3940/D/16/3156898**

**8 Fulmar Close, Bowerhill, Wiltshire SN12 6XU**

- 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 Omar Abdulshakour against the decision of Wiltshire Council.
  - The application Ref 16/02681/FUL, dated 16 March 2016, was refused by notice dated 29 June 2016.
  - The development proposed is new roof to detached garage with ancillary accommodation.
- 

### Procedural matters

1. The appellant has requested that I assess the proposal as first submitted, as well as revised. However, I can only assess this appeal on the basis of the plans that were before the Council when it made its decision. I have therefore assessed this appeal on the basis that the proposed increase in roof height would be 450mm, as revised in May 2016. This revision was the subject of further neighbour consultation before the Council made its decision.

### Decision

2. The appeal is allowed and planning permission is granted for new roof to detached garage with ancillary accommodation at 8 Fulmar Close, Bowerhill, Wiltshire SN12 6XU in accordance with the terms of the application, Ref 16/02681/FUL, dated 16 March 2016, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plan: AH2016/24 dated 22 May 2016.
  - 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development ) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification) no windows, doors, roof lights or dormer windows or other forms of openings other than those shown on the plan hereby approved shall be inserted into the development hereby permitted.
  - 4) The extension hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 8 Fulmar Close.

### **Main Issue**

3. The main issue is the effect of the proposed garage roof extension on the living conditions of the adjacent occupiers at 7 Fulmar Close in terms of daylight, sunlight and aspect.

### **Reasons**

4. The side wall of the existing garage of 8 Fulmar Close is on the boundary with 7. The garage is to the south of 7, at a slight angle to due north, so it overshadows the garden and the rear conservatory of that property, although some afternoon sunlight does reach the corner of the rear of 7 through the gap. The conservatory at the rear of 7 is not shown on the block plan, but I visited this garden on a clear sunny day at around noon when the sun was highest in the sky and I have seen the relationships of the two properties for myself.
5. The proposed roof would be raised by 450mm, which is the equivalent of approximately 7 courses of the brickwork. Some sunlight would be lost from the garden and conservatory at the rear of 7 in comparison to the existing situation, but the effect of this would be relatively small. Given its inset position on the west slope of the roof, the closest dormer ridge would not block sunlight reaching 7, except possibly for a small amount in the late winter afternoon. Given the layout of the conservatory, there would be no material impact on the levels of daylight it currently enjoys.
6. There would be a small increase in the visual impact of the raised side wall of the garage but the front dormers would be set in from the edge of the roof. The overall visual impact of the proposal as seen from the rear garden areas of 7 would not be significantly greater than the existing situation. The conservatory at 7 is large and spans the whole of the rear wall. The existing garage wall can be seen in close proximity to this room, but there is a wide open aspect in other directions across the garden. The proposed garage roof extension would not therefore cause an unacceptably overbearing aspect for the occupiers of this room.
7. The first floor window at the rear of 7 closest to the garage is a bedroom which faces east over the garden. This room would still have a reasonable aspect and due to its raised position in relation to the garage, this window would not lose sunlight or daylight. Concern has also been expressed about potential overlooking of this window from the proposed dormer windows. However, the proposed dormer windows would be approximately in line with the rear wall of 7 and would face towards the street, so they would not directly overlook either this window or the side bathroom window.
8. I therefore conclude that the occupiers at 7 Fulmar Close would still have a good standard of living conditions, as required by paragraph 17 *Core planning principles* of the National Planning Policy Framework.
9. Residents of Belvedere Road have expressed concern about the loss of privacy due to the external staircase and the proposed roof light in the rear slope. However, these properties are well separated from the proposed extension and given the mutual intervisibility between these dwellings, the proposed staircase would not cause an unacceptable loss of privacy to these occupiers. The roof light would be small and high up in the roof slope, so it would be unlikely to cause any overlooking.



10. Concerns about the possible use of the room over the garage have been expressed, but a condition, as suggested by the Council, would prevent the garage building becoming a separate dwelling or being rented out separately.

### **Conclusions**

11. Although I have found that there would be some impact on the occupiers of 7 Fulmar Close in terms of loss of sunlight, I conclude that the effect of this on their living conditions would be small in comparison to the effect of the existing garage. I found that the living conditions of the adjacent occupiers in houses to the rear of the appeal site in Belvedere Road would not be significantly affected in terms of privacy. I therefore conclude that the proposed extension would not harm the living conditions of the adjacent occupiers, which will remain good.
12. The submitted plans indicate that the proposed materials would match the existing house and due to its set back position the proposed roof extension would not harm the wider character or appearance of the area.
13. Wiltshire Core Strategy policy CP57 *Ensuring high quality design* requires that development should enhance local distinctiveness, respond positively to the existing townscape, take into account the characteristics of the site, have regard to the impact on the amenity of existing occupants including consideration of privacy, or overshadowing. For the reasons I have set out above, I conclude that the proposal complies with this policy.
14. A condition would ensure that the accommodation remains ancillary to the main house.
15. For the reasons given above I therefore conclude that the appeal should be allowed.

### **Conditions**

16. I have considered the Councils suggested conditions in the light of the tests set out in paragraph 206 of the National Planning Policy Framework and the guidance in the Planning Practice Guidance. I have applied the standard time limit and required the development to be carried out in accordance with the approved plans, to provide certainty.
17. In order to protect the living conditions of the adjacent occupiers, I have attached a condition suggested by the Council withdrawing the permitted development rights to add new windows, doors, roof lights or dormer windows.
18. I have also attached the standard condition requiring the extension not to be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 8 Fulmar Close. This in order to protect the living conditions of adjacent occupiers and future occupiers.

*Jacqueline Wilkinson*

INSPECTOR



Town & Country Planning Act 1990

**NOTIFICATION OF REFUSAL of Full Planning**

Application Reference Number: 16/02681/FUL

<b>Agent</b> A Harlow & Son Park Gates Rood Ashton Park West Ashton Wiltshire BA14 6AT United Kingdom	<b>Applicant</b> Mr Omar Abdulshakour 8 Fulmar Close Bowerhill Wiltshire SN12 6XU United Kingdom
<b>Parish: MELKSHAM WITHOUT</b>	
<b>Particulars of Development: Proposed new roof to detached garage with ancillary accommodation</b>	
<b>At: 8 Fulmar Close Bowerhill Wiltshire SN12 6XU</b>	

In pursuance of their powers under the above Act, the Council hereby **REFUSE TO GRANT PERMISSION** for the development referred to in the above application and plans submitted by you, for the following reason(s):

- 1 The proposal by virtue of its proportion, form and scale would result in an overbearing and dominant form of development, which would result in the loss of daylight and be overshadowing to the detriment of the neighbour's amenity at 7 Fulmar Close. This would be contrary to Policy CP57 of the adopted Wiltshire Core Strategy.

In accordance with paragraph 187 of the National Planning Policy Framework (NPPF), this planning application has been processed in a proactive way. However, due to technical objections or the proposal's failure to comply with the development plan and/or the NPPF as a matter of principle, the local planning authority has had no alternative other than to refuse planning permission.

Signed



Director for Economic Development & Planning

Dated: 29 June 2016



**REPORT FOR WESTERN AREA PLANNING COMMITTEE****Report No.1**

<b>Date of Meeting</b>	29 <sup>th</sup> June 2016
<b>Application Number</b>	16/02681/FUL
<b>Site Address</b>	8 Fulmar Close, Bowerhill, Wiltshire SN12 6XU
<b>Proposal</b>	Proposed new roof to detached garage with ancillary accommodation
<b>Applicant</b>	Mr Omar Abdulshakour
<b>Town/Parish Council</b>	MELKSHAM WITHOUT
<b>Electoral Division</b>	MELKSHAM WITHOUT SOUTH – Councillor Roy While
<b>Grid Ref</b>	391735 162252
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Katie Yeoman

**Reason for the application being considered by Committee:**

Cllr Roy While requested that this application be called-in for the elected members to determine should officers be minded to grant permission. The expressed key issues identified by Cllr While for members to consider are:

The scale of development  
 The visual impact upon the surrounding area  
 The relationship to adjoining properties  
 The design – bulk, height and general appearance

**1. Purpose of Report**

This application was deferred by the Western Area Planning Committee at 18<sup>th</sup> May meeting to allow for an elected member site visit to take place.

Following the deferral of the application, the agent submitted revised plans and therefore all interested parties were re-notified and given 14 days to comment.

Following the re-consultation process, this report has been updated and to assist the committee's determination, a member's site visit is scheduled for 13:30 on 29<sup>th</sup> June.

Melksham Without Town Council – updated comments were received on 07/06/2016 raising objections which are summarised in section 7.

Neighbourhood responses – In total, 10 letters of objection have been received which are summarised in section 8.

**2. Report Summary**

The main issues to consider with this application are:

- The impact on the character and appearance of the host dwelling and wider area.
- The impact on neighbour amenity

**3. Site Description**

The application site relates to a residential property located at the south eastern end of the Fulmar Close cul-de-sac in Bowerhill. The property comprises a two storey detached dwelling constructed of red brickwork under a concrete profile tiled roof. The detached single storey detached garage which is the subject building for this application is located to the north of the dwellinghouse and is illustrated in the block plan and site photograph on the following page.



An area of hardstanding is located to the property frontage with the garden to the rear.

#### 4. Planning History

W/93/00156/FUL	Bedroom and lounge extension	Approved with Conditions
W/02/00610/FUL	Extension	Approved with Conditions

#### 5. The Proposal

This application seeks permission for ancillary accommodation to be provided within the roof space of the existing garage. The applicant proposes to increase the roof height by approximately 450mm (NB: the applicant originally proposed to increase the height by 800mm), install two dormer windows to the front roof slope and one roof light in the rear and construct an external staircase to the south elevation. This would be an ancillary use to the main building.

#### 6. Local Planning Policy

Local Context: Wiltshire Core Strategy (the development plan) relevant policies – CP15, CP57

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

#### 7. Summary of Consultation Responses

Melksham Without Parish Council: Updated comments were received on 07/06/2016 stating that following receipt of further information from adjacent residents, the Council objects on the grounds of overlooking and loss of light amenity to the neighbouring properties.

#### 8. Publicity

The public consultation exercise comprised individual letters being sent to neighbours and the display of a site notice. Following receipt of the revised plans, all interested parties were re-notified allowing 14 days for comments. In total, 10 letters of objection have been received which in summary raise the following issues:

- Detrimental design and visual impact.
- There is a similar construction currently being built at the start of the same close (no. 3 Fulmar Close) but the high level doorway overlooks the road and not the surrounding gardens and houses.
- The garage at no. 8 Fulmar Close is already higher than other garages in the vicinity and any height increase would have a significant impact on the residential amenity. In particular, the proposal would adversely impact upon the outlook from these properties, cause loss of light, overshadowing and loss of privacy.
- Concerns regarding the proposed use of the site and future development that would cause noise and traffic concerns.
- The increase in building mass would have an overbearing impact on no. 7 Fulmar Close.

- The proposal breaches Core Policy 57 of the Wiltshire Core Strategy.

## **9. Planning Considerations**

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

9.2 The Principle of Development: The application site is located within the established limits of development where there is a presumption in favour of sustainable development.

9.3 Impact on the character and appearance of the host dwelling and surrounding area: The proposed garage would be increased in height by 450mm whilst retaining the same footprint. In consideration of the modest alterations proposed, the development would continue to represent a subservient addition to the host dwelling that would neither detract from the host dwelling or wider area.

9.4 The proposed front dormers would appear as sympathetic additions to the outbuilding, utilising a satisfactory design and matching materials to the existing dwelling. The proposal would therefore have a limited impact on the character of the host dwelling or cul-de-sac.

9.5 Whilst every application must be assessed on its own merits, members are asked to note that the Council recently approved a similar development at no. 3 Fulmar Close (under application 15/10154/FUL). The revised proposal submitted under this application would have a similar height, footprint and design to that found at no. 3 Fulmar Close thereby respecting the character and appearance of the cul-de-sac.

9.6 Under application ref 15/10154/FUL, permission was granted to create a first floor within the existing garage building. The external works included installing two dormer windows in the roof, erecting an external staircase to the north elevation and increasing the height of the building by 0.2m. The approved outbuilding measures 5.35m (height) x 5.35m (width) x 5.4m (length). Officers concluded that the minor alterations would cause no harm to the character and appearance of the host dwelling or street scene.

9.7 As part of this current application, the development proposal would measure 5.35m (height) x 5.35 (width) x 5.4m (length). The development also proposes installing two dormer windows, erecting an external staircase and increasing the roof height by 0.45m. A roof light would also be inserted into the rear roof slope of the outbuilding. On this basis, officers consider that given the similarities between the approved outbuilding at no.3 and the proposal submitted, the impact on the host dwelling and street scene would also be acceptable.

9.8 Impact on neighbour amenity: Officers appreciate that the existing 4.9m garage to a certain degree, reduces the amount of daylight and direct sunlight entering the conservatory and patio area of no. 7 Fulmar Close at certain times of the day, as illustrated in the aerial google image which is reproduced on the following page. Due consideration has been given to the degree of overshadowing and loss of light already caused to no. 7 at different times of the day and year as well as taking into account the potential increased shadowing impacts. Having reviewed the case and noted the applicants' proposed reduced altered ridge height, officers duly argue that the development would not result in a situation substantially different to what exists at present and the harm to the neighbours would be limited.



9.9 With regards to the potential overbearing effect on no. 7, whilst the owner's outlook from the side of the conservatory and patio area would be altered by having a marginally larger structure on the shared boundary with no. 8, the outlook is already impeded by the existing garage building and the proposal would not significantly exacerbate the situation.

9.10 The proposed dormer windows to the west elevation would not result in harmful overlooking or loss of privacy to the immediate neighbours given the existing arrangement of windows and separation distances between the subject building and neighbouring properties - as illustrated in the site photograph and block plan which are reproduced within section 3 of this report. Furthermore, given the proposed height, scale and positioning on the front roof slope, there would be no significant loss of light and overshadowing to no. 7 Fulmar Close.

9.11 The proposed roof light to the rear roof slope of the building would be positioned 1.85m above the internal floor level therefore any overlooking concerns affecting neighbouring properties would be satisfactorily restricted.

9.12 The proposed upper floor accommodation would be accessed via an external staircase and door positioned on the garage's southern elevation. The proposed staircase would be positioned approximately 10m from the shared boundary with no. 34 and 36 Belvedere Road, with an additional 10-12m to the nearest habitable rooms. This separation broadly meets the standard expected 21m between habitable rooms and on this basis, officers are satisfied that it would not cause unacceptable overlooking or loss of privacy.

9.13 For the reasons above, it is considered that the proposal would cause no significant harm and it is not considered that these impacts are so substantial that permission should be refused.

9.14 Other material considerations: Concerns have also been raised regarding the future use of the proposed outbuilding and potential adverse impacts created by increased noise and traffic that may arise. The conversion of ancillary accommodation into a separate planning unit would require separate planning consent therefore such works would be adequately controlled by the Planning Authority.



## **10. Conclusion (The Planning Balance)**

For the reasons set out above, the revised proposal is considered to comply with CP57, having due regard to the visual impact on the host dwelling and wider area and the impact on the amenities of the existing occupants of neighbouring properties.

On the basis of the above it is assessed that planning permission should be granted subject to conditions.

### **RECOMMENDATION: Approve with conditions**

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

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

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

Existing and Proposed Plans - Drawing No. AH2016/24 sheet (1 of 1) dated 22.05.2016

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

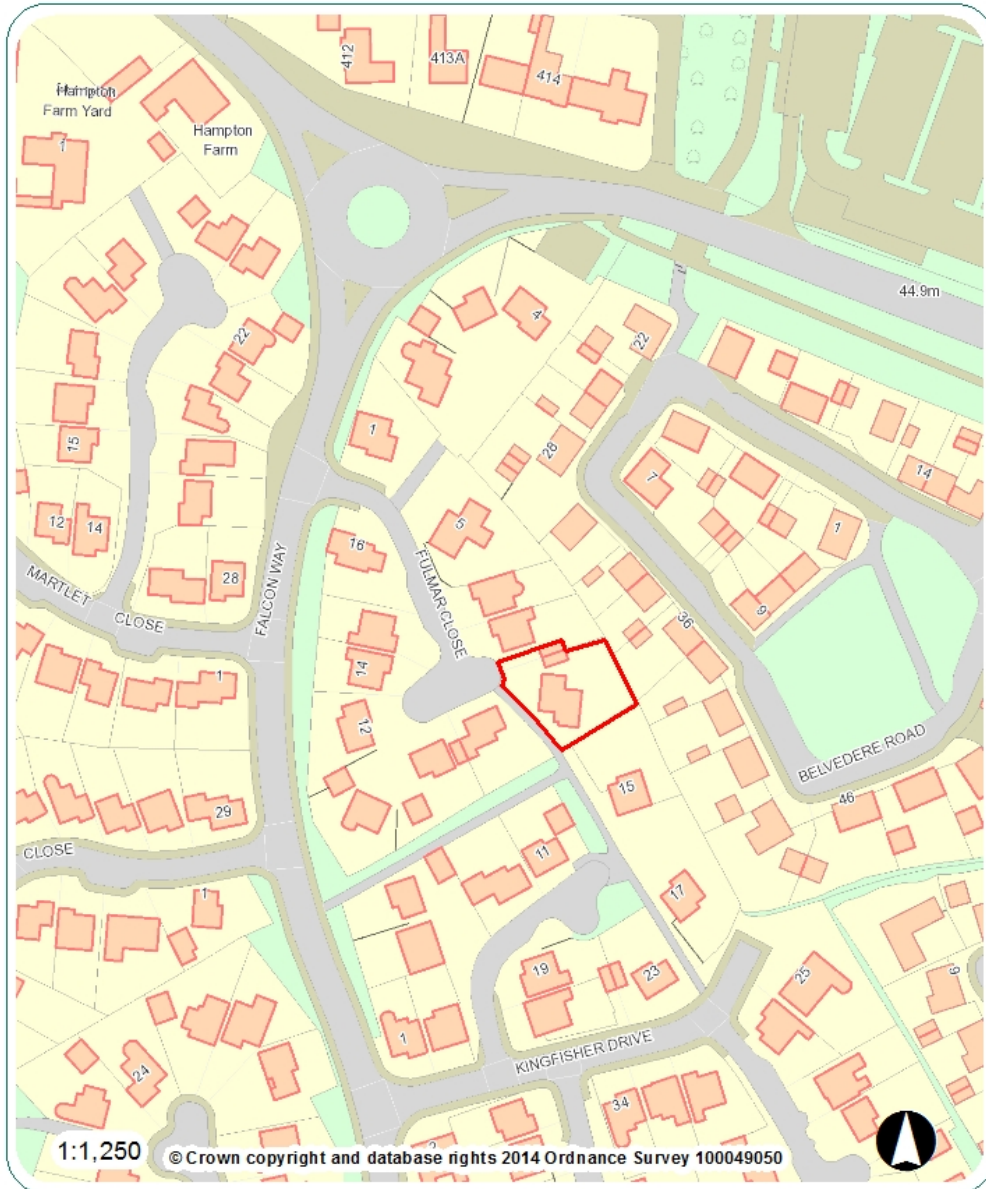
3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), no windows, doors or other form of openings other than those shown on the approved plans,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

REASON: In the interests of residential amenity and privacy.

4. The development hereby permitted shall not be used at any time other than for purposes ancillary to the residential use of the main dwelling, known as No. 8 Fulmar Close and it shall remain within the same planning unit as the main dwelling.

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





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