

Southern Area Planning Committee

MINUTES OF THE SOUTHERN AREA PLANNING COMMITTEE MEETING HELD ON 29 SEPTEMBER 2020 AT ONLINE.

Present:

Cllr Fred Westmoreland (Chairman), Cllr Richard Britton (Vice-Chairman), Cllr Brian Dalton, Cllr Jose Green, Cllr Leo Randall, Cllr Sven Hocking, Cllr Ian McLennan, Cllr John Smale and Cllr Graham Wright (Substitute)

Also Present:

73 Apologies

Apologies were received from:

- Cllr George Jeans who was substituted by Cllr Graham Wright
- Cllr Mike Hewitt

74 Minutes of the Previous Meeting

The minutes of the meeting held on 27 August 2020 were presented.

Resolved:

To approve as a correct record and sign the minutes.

75 Declarations of Interest

In relation to application 20/05322/VAR (7c), Cllr Westmoreland noted that he had a past acquaintance with one of the public speakers. This was as the Chairman of local group of artists, which he was no longer chair of. Since that time, he had not had any other personal meetings with that person. Therefore, declared that he did not feel it affected his ability to take part in the discussion and vote on that item.

76 Chairman's Announcements

The Chairman explained the procedure should a recess be required.

77 Public Participation

The committee noted the rules on public participation.

78 **Planning Appeals and Updates**

The Chairman moved that the Committee note the contents of the appeals report included within the agenda pack and requested that any questions be made to officers outside of the meeting. As such, it was:

Resolved

To note the appeals report for the period of 13 August to 18 September 2020.

79 **Planning Applications**

80 **19/11206/OUT: Land to the East of Wagtails, Southampton Road, Alderbury, SP5 3AF**

Public Participation

Colin French read a statement in objection to the application

David Webb read a statement in objection to the application on behalf of Mrs Hexter

Ken Carley read a statement in objection to the application

Elaine Hartford (Chair) of Alderbury PC read a statement in objection of the application

Adam Madge, Planning Team Leader, presented the outline application for up to 32 dwellings with all matters reserved (except access) at land to the east of Wagtails, Southampton Road, Alderbury, SP5 3AF.

The Officer noted that following a protracted period of discussion and negotiation, the applicant had chosen to exercise their right to appeal against non-determination of the application. This meant that the Council no longer had the powers to formerly determine the application, as that power now lay with the Planning Inspectorate.

The view of the Committee was sought to enable the Council to make its case to the Inspector.

The presentation highlighted matters in relation to the principle and policy, the impact on residential amenity, highways systems, ecology, drainage, flooding and S106 and viability.

The application site was an L shaped parcel of greenfield land which was outside of the settlement boundary but was adjacent to it on three sides.

Trees and vegetation on the site had been cleared and developers were at present building houses on one side of the site near the entrance, which already had planning permission.

It was advised that the outline application, was an indicative plan only, and was not necessarily how the site would look when completed.

There were residential dwellings along three sides of the site and also a public footpath to one side.

Other house development had recently been approved around the site, with 50 houses at the back, which had gained permission on appeal, with construction not yet started.

Slide 6 detailed the plan for the different types of houses and the 40% affordable housing that the applicant has said would be included.

There was also a children's play area and a greenspace.

Existing dwellings on Southampton Road that backed on to the site would have views of the new houses proposed and would be the most impacted on by the development.

It was noted that although the report did not make much mention to CP1, the first reason for refusal did mention this and Officers were recommending refusal on that point, in that larger villages would only be developed to a certain extent.

The river Avon had been identified by Natural England (NE) as having too high levels of phosphate and NE had advised that applications which would add to those levels should not currently be approved.

The site was previously heavily covered with trees which had since been felled and removed. It was felt that a substantial number of trees and shrubs should be put back into the site, however and at present due to the number of proposed dwellings and layout, it was felt that this would not be possible.

It was also noted that the Applicant had not yet signed a legal agreement.

For the reasons mentioned and detailed in the Officer report, the application would be recommended for refusal by Officers.

Members of the Committee had the opportunity to ask technical questions to the officer. In response to queries, it was clarified that the ownership of the footpath was not known by the Officer. The usual length of future retention given to a planting scheme was for a period of five years from development, unless there were Tree Preservation Orders in place, then they would be protected forever.

A query on areas of Wiltshire which required additional housing was clarified. In that, although the South West community area specifically, at present did not require further housing, the way the council was required to calculate the housing land supply, meant that Alderbury was included in the wider calculation which did require more housing.

The site was in the river Avon catchment area which drained down into Southampton water, which also had issues. The reason for refusal was connected to the river Test area which was affected by nitrates.

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

Some of the main points included comments around the scale of the development and that the proposed dwellings would not be in-keeping with neighbouring properties.

The Parish Council was in objection to the proposed development.

Local Member Cllr Richard Britton then spoke in objection to the application, noting that his points had already been made by the statements read by the PC and public speakers.

He put into context the nature of the application, according to the council's development strategy, and that Alderbury was considered as a large village. Noting that CP1 stated there would be limited development inside the settlement boundary, and that a small development was considered to be less than 10 properties, or infill developments.

There had already been 14% development growth in Alderbury, since 2013, with no significant alterations to the amenities.

The previous 50 house development had offered considerable benefits, a football club, preschool, replacement girl-guide hut and a piece of land for the preschool.

This site currently remained outside of the settlement boundary.

There were ecological implications to the development. The site was created by the felling of 150 trees, which amounted to ecological vandalism on a prolific scale. There was nothing in the proposal that got close to offer compensation for habitat loss or biodiversity impact.

There were issues connected to the river Test and the river Avon catchment areas.

Despite Highways reporting a no objection to the issue of access onto the Southampton Road, Cllr Britton noted that he was involved with the Community Speedwatch scheme, which involved monitoring traffic at the south of the site access. The speeds and traffic flows there were enormous, with traffic increasing in the summer months.

People regularly choose to bypass it by driving through Alderbury. He noted that it was a great shame that there was no highway objection and asked the Committee to consider the inclusion of that as a reason for refusal.

Cllr Britton then moved a motion that the Committee refused the application in line with the officer recommendation, and that the recommendation should form the council's defence of the appeal. I would like the highways reason to be included. This was seconded by Cllr Wright.

Mr Madge noted he understood the concerns around the Highways matter, however as there was no objection by Highways, there would be no support from Highways at appeal.

Cllr Britton felt strongly that the matter of a highways problem did exist and wished it to be included. The Chairman, Cllr Westmoreland supported the view that the addition of the Highways reason be included to the list of reasons for refusal.

Cllr Britton moved the addition of a Highways reason as an amendment to the motion, which was seconded by Cllr Westmoreland.

The Committee was invited to discuss the amendment where reference to a previous hearing on a local plan, where the inspector had said that there should not be much more development on the A36.

A query whether the Highways issue could be added as an informative was asked of the Officer, who advised that it would not have the power that members were looking for in this case.

Following debate, the Committee confirmed they had heard and seen all relevant visual materials, and voted on the motion of refusal in-line with officer recommendation, with the additional reason on highways issues. It was:

Resolved:

That if the Committee were in a position to determine the application, that it be Refused, for the following reasons: -

- 1) Notwithstanding that the Council is currently unable to demonstrate a five year supply of housing land within the South Wiltshire Housing Market Area (and consequently the tilted balance towards the interpretation of the settlement boundary is engaged), and taking into account the benefits the proposal would bring in the provision of affordable housing units, there remain strong material considerations in respect of the adverse impact the development would have on the integrity of European protected wildlife sites, as well as ecological concerns within the site itself.**

Consequently it is considered in this case the effect of the tilted balance in respect of the interpretation of the settlement boundaries, together with the benefits provided by the provision of affordable housing units, are clearly and significantly outweighed by the adverse impacts of the proposal on the integrity of the European Protected sites on the River Test and The Solent, and the New Forest, and the lack of any meaningful ecological and biodiversity mitigation and enhancement that the scheme would bring.

In these respects, the proposed development is considered to be discordant with Core Policies CP1, CP2, CP23, and CP50 of the Wiltshire Core Strategy and the aims and objectives of the NPPF.

- 2) The site is situated within the River Test catchment which drains into the Solent, a maritime area protected by a number of European designations. Advice from Natural England indicates that every permission that results in a net increase in foul water entering the catchment could result in increased nutrients entering the European sites causing further deterioration to them. The application does not include detailed proposals to mitigate the impact of increased nutrients and consequently, without such detailed proposals, the Council as a competent authority cannot conclude there would be no adverse effect on the integrity of the European sites as a result of the development. The proposal would therefore conflict with Wiltshire Core Strategy policy CP50 (Biodiversity and Geodiversity); and paragraphs 175 and 177 of the National Planning Policy Framework.

3) The application site (a former mixed woodland) had recently been almost entirely cleared of trees and habitats prior to the submission of the planning application. As such, the local planning authority considers that current baseline conditions at the site are not representative of the ecological baseline conditions as they were prior to clearance and as such the LPA's ecology team has not been permitted the opportunity to consider the application alongside the requirements of the NPPF 2019 and CP50 of the Wiltshire Core Strategy (Adopted January 2015) and to assess whether the proposed development would be acceptable in terms of ecology. Ecology would have very clearly constituted a material consideration in the determination of this planning application. The submitted *Ecological Constraints Survey Report* (Daniel Ahern Ecology, August 2018) with application 19/03480/OUT suggested that the ecological issues at the site have been identified. However, this report and the survey conducted to inform its production were undertaken subsequent to the site being cleared. The purported ecological information submitted in respect of the current application (Ecological Statement – 1215 Heritage Homes November 2019) has not been prepared by a qualified ecologist and does not meet recognised industry standards to fully assess the impact of the development on the biodiversity of the site.

The clearance of the entire site prior to determination of the planning application has meant that there has been no opportunity for the Council to comment on or influence the proposed layout of the development in terms of biodiversity and the retention and protection of ecological features that were present on site. The NPPF 2019 and Section 40 of the NERC Act 2006 places a duty on LPA's to only permit developments that will result in a net biodiversity gain and this is augmented by means of CP50 of the Wiltshire Core Strategy. Given the clearance of the entire site of woodland habitat, the limited ecological enhancements proposed in the submitted *Ecological Statement* and total lack of compensatory measures or soft landscaping proposed, the local planning authority considers this development has already resulted in a total net loss of biodiversity and should not be granted planning permission as it contravenes local and national planning policy, contrary to Core Policies CP50, CP52 & CP57 of

the adopted Wiltshire Core Strategy and saved SDLP policy C9 by which all development should seek opportunities to enhance biodiversity (Major development in particular must include measures to deliver biodiversity gains through opportunities to restore, enhance and create valuable habitats, ecological networks and ecosystem services), which also seek to preserve woodland, ensure that valuable features and characteristics are protected and enhanced, that Wiltshire's green infrastructure network is retained and enhanced and that development should protect, conserve and where possible enhance landscape character and must not have a harmful impact upon landscape character.

4) The application makes insufficient provision in respect of affordable housing, public open space provision, education provision, and waste and recycling contributions and is therefore contrary to the aims of policies CP45 & CP57 of the Wiltshire Core Strategy, saved SDLP policy R2 and the requirements of Wiltshire Council's Waste storage and collection: Supplementary Planning Document.

5) The proposal is for 32 additional dwellings in Alderbury village. The village is bypassed by the main A36 trunk road, but the village access is close to the junction where the A36 narrows to a single carriageway and goes on into Salisbury. At busy periods, traffic will often back up along the dual carriageway past the village. Therefore, significant amounts of traffic try to avoid the dual carriageway during those periods by driving through Alderbury instead. These 32 dwellings with the consequent additional vehicles will add to the traffic and noise passing through the village, already experienced by villagers currently and will exacerbate an already unsustainable issue to the detriment of pedestrians, residents and other road users. The proposal which will rely heavily on vehicle usage and add to congestion is therefore contrary to policy CP57 and CP64 of the Wiltshire Core strategy.

INFORMATIVE

Reason for refusal 4 could be overcome through the landowner entering into a suitable S.106 legal agreement with Wiltshire Council to make appropriate provision in respect of on-site affordable housing, an appropriate financial contribution towards public open space provision, educational provision, and towards the provision of waste and recycling containers. The amount of the contributions would be index linked from the date of the resolution to grant planning permission.

81 20/02624/FUL: The Old Dairy, Church Road, Milston, SP4 8HT

Public Participation

Suzanne Kennedy read a statement in support to the application

Nigel Keen read a statement in support of the application

Nigel Keen read the statement of EPR Ecology in support of the application.

Tracey Glibber, Chair of Milston PC, read a statement in support of the application.

Georgina Wright, Senior Planning Officer, noted an update to the published agenda pack, which was that Milston Parish Meeting had raised no objection to the application. She then presented the application which was for change of use of two adjoining agricultural buildings to form a single-family home. Demolition of a further barn and its replacement with a garage/workshop and associated works. The application was recommended for refusal as detailed in the Officer report.

Key issues highlighted included: Principle, heritage, Character and Design, Neighbouring Amenities, Highway Safety, Flooding and Ecology.

The site included a collection of agricultural buildings based around a farmyard. Slide 14 showed the four buildings labelled as A,B,C and D.

The proposal involved the conversion of buildings A and B into a single four-bedroom dwelling.

Building C was to be demolished and replaced with a new garage block.

Building D was to be converted into a residential annex but did not form part of this application.

Access to site was from the north, on Church Road. The dwellings opposite the site on Church Road were Grade II listed buildings.

There were three recommended reasons for refusal, which the Officer then explained.

Reason one related to the planning history of the site. In 2017, buildings A & D both received planning permission through class Q of the general permitted development order, for a conversion into two separate dwellings. That permission had since expired.

Building B was refused permission for its use as a dwelling under the class Q route in 2017 as it was felt that that building was not capable of conversion. At the subsequent appeal, the Inspector agreed with that reason for refusal and so that building remains in agricultural use.

This application proposed the conversion of building A and B into one dwelling, with building A containing the bedrooms and building B to have the living quarters. The two buildings would be linked with a modest single storey glazed link.

The application was to be considered under policy CP48 which was more restricted than the class Q process re conversion of buildings. Under class Q, building B was found to be unconvertable. Likewise, for the same reason it did not satisfy CP48.

Building A could be a dwelling if the applicant re-applied under class Q.

The second reason for refusal was based on flooding, the flood zones currently went into the site, in particular over building B. New build in flood zone 2 was not acceptable unless a sequential test was done to look at alternatives outside of flood zones 2 and 3. There was an alternative on this site, so this scheme failed the sequential test for flooding.

The third reason was due to the river Avon, as there was no current strategic level mitigation for phosphate loading into the river Avon. Therefore, any additional dwelling in this part of the county was currently being refused or held until there was mitigation in place. Therefore, as the application proposed to introduce a new dwelling on the site, where there was a phosphate loading issue, to give permission would be contrary to policy.

The proposed elevations and floor plans were explained.

Members of the Committee had the opportunity to ask technical questions to the officer. In response to queries, it was clarified that the cladding would be dark in colour and would be conditioned should the application be approved.

Drainage and flooding were two separate matters. The Environment Agency (EA) had said that the flood zones were indicative and likely to be best case scenario and because of climate change could be likely to change/be worse.

If the committee was mindful to approve the application then it would be able to condition that the development did not commence until the phosphate issue had been resolved. The Officer noted that this was not a best practice approach and may take a while to resolve

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

One statement suggested that a condition be applied to restrict the site to one dwelling. The Officer confirmed that a condition of that nature was not possible.

In response to the ecology report which had been read out, the Officer noted that it stated there would be a calculation of the phosphates and there would be a mitigation package put forward, however it was her understanding that it was not as simple as that. Until the calculations and mitigation had been provided the Officer could not be satisfied that the matter was resolved and if it were that simple she suggested that everyone else would do that for every other site that was currently being held up/refused on this matter. The WC Ecologist had been made aware of the proposals outlined in the report but due to lack of detail had reconfirmed their objection

Local Member Cllr John Smale then spoke in support of the application, noting that the applicants had vast support for the application locally. There had been a coming together of the villages to show their support of the development.

He noted that the dairy had been derelict for the last 30 years and that it was lucky that this family had come along and were taking their time to make sure they were getting things right to improve the location.

He hoped that they would be able to achieve accommodation that was suitable for the family, confirming that he had seen samples of the proposed cladding and felt that it was suitable.

He raised a point regarding nutrients and phosphates, in that the applicants would need to supply a mitigation plan. He stated that Wessex Water were in full support of the suggested action the applicant would take.

Cllr Smale then moved a motion of approval, against Officer recommendation, stating the reasons as local support, support of the parish council and the improvement of a derelict site of 30 years. This was seconded by Cllr Wright.

In the ensuing debate, Members considered the high level of support from neighbouring villages and the parish council to the proposals and whether there was any visible harm to the development from outside of the site.

The Council policy relating to phosphates and whether that could be managed under a condition to request that no development would take place until a mitigation strategy to deal with phosphates was produced by the applicant which satisfied the councils Ecological Officer.

Discussion around the height of the concrete base for building B and whether that would deal with the issue of flooding and whether it was possible to convert the agricultural barns in their current state, or if it would be considered new build. The situation of the previous permission under class Q for two dwellings was raised and that it would be possible for the applicant to apply for that again for building A.

It was noted that Wessex Water's support was only connected to the drainage aspect of the development, and not the phosphate issue, as that was dealt with by Natural England.

The Case Officer clarified the law on conditioning ecological matters.

Following debate the Committee confirmed they had heard and seen all relevant visual materials, and voted on the motion of approval against officer recommendation with the added condition that no development would take place until a mitigation strategy to deal with phosphates was produced by the applicant which satisfied the councils Ecological Officer.

Cllr McLennan requested that his dissent be recorded.

It was:

Resolved:

That application 20/02624/FUL be GRANTED subject to the following conditions:

1. **WA1** 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. **WM13** The development hereby permitted shall be carried out in accordance with the following approved plans:

Application Form & Certificate

Ref: L-000 – Location Plan. Received – 23.03.2020

Ref: PL-001 – Proposed Site Plan. Received – 23.03.2020

Ref: PL-002 – Proposed Block Plan. Received – 23.03.2020

Ref: PL-101 – Proposed Ground Floor Plan. Received – 23.03.2020

Ref: PL-102 – Proposed First Floor Plan. Received – 23.03.2020

Ref: PL-201 – Prop. Context Elev. A-A, B-B, C-C Received – 23.03.2020

Ref: PL-202 – Prop. Context Elev. D-D, E-E. Received – 23.03.2020

Ref: PL-203 – Proposed House Elevations – W&S. Received – 23.03.2020

Ref: PL-204 – Proposed House Elevations – E&N. Received – 23.03.2020

Ref: PL-206 – Proposed Garage Elevations. Received – 23.03.2020

Ref: PL-401 – Proposed Details – D1, D2. Received – 23.03.2020

Ref: PL-402 – Proposed Details – D3, D4, D5. Received – 23.03.2020

Ref: PL-403 – Proposed Details – D6. Received – 23.03.2020

Ref: PL-404 – Proposed Details – D7, D8. Received – 23.03.2020

Ref: PL-405 – Proposed Details – D9, D10. Received – 23.03.2020

Ref: PL-406 – Proposed Details – D11, D12. Received – 23.03.2020

Ref: PL-901 – Proposed Materials Board. Received – 23.03.2020

Ref: 7244/501 Rev A – Drainage Strategy. Received – 02.06.2020

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

3. **WB1** No development shall continue above slab level on site until the exact details and samples of the materials to be used for the external walls and roofs have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

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

4. **WC1** No development shall commence on site until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include:

- a detailed planting specification showing all plant species, supply and planting sizes and planting densities;
- means of enclosure;
- car park layouts;
- other vehicle and pedestrian access and circulation areas;
- all hard and soft surfacing materials;

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

5. **WC2** All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

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

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

REASON: In the interests of the design, character and amenity of the rural location; to reduce the potential impact of flooding; and to enable the Local Planning Authority to consider individually whether

planning permission should be granted for additions, extensions or enlargements.

7. **WE15** 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), the garage(s) hereby permitted shall not be converted to habitable accommodation.

REASON: In the interests of the design, character and amenity of the rural location and to secure the retention of adequate parking provision, in the interests of highway safety.

8. The living accommodation that is to be provided in Building B (along the western edge of the site) hereby approved, shall be limited to non sleeping accommodation only (i.e. it shall not be used or subdivided for use as a bedroom/s).

REASON: To limit the impact of any potential flood risk

9. **WH6** The flood risk mitigation measures and drainage strategy detailed in the approved Flood Risk Assessment & Drainage Strategy (Cole Easdon Consultants Ltd, Issue 2, March 2020) shall be carried prior to the first occupation of the development and/or in accordance with the approved timetable detailed in the assessment.

REASON: In the interests of flood prevention.

10. **WH9** No development shall commence on site, including site clearance, until the biodiversity enhancement measures detailed in the approved Phase 1 & 2 Bat Report (Lyndsey Carrington Ecological Services, Updated June 2020) have been outlined on a plan and submitted to and agreed in writing by the Local Planning Authority. The agreed works shall be implemented in full prior to the dwelling hereby approved being first occupied and maintained/retained in situ, in perpetuity.

REASON: To enhance biodiversity and nature habitats across the site.

11. **WH11** No development shall commence on site (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include, but not necessarily be limited to, the following:

- a) Risk assessment of potentially damaging construction activities
- b) Identification of 'biodiversity protection zones'

- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements)
- d) The location and timing of sensitive works to avoid harm to biodiversity features
- e) The times during construction when specialist ecologists need to be present on site to oversee works
- f) Responsible persons and lines of communication
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person(s)
- h) Use of protective fences, exclusion barriers and warning signs.
- i) Ongoing monitoring, including compliance checks by a competent person(s) during construction and immediately post-completion of construction works.

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

A report prepared by a competent person(s), certifying that the required mitigation and/or compensation measures identified in the CEMP have been completed to their satisfaction, shall be submitted to the Local Planning Authority within 3 months of the date of substantial completion of the development or at the end of the next available planting season, whichever is the sooner.

REASON: To ensure adequate protection, mitigation and compensation for protected species, priority species and priority habitats.

12. No development shall commence on site, including site clearance or demolition, until a scheme to ensure that the development hereby approved will be phosphate neutral, including calculations of the potential phosphate levels from the site; any mitigation; and a scheme of phosphate reduction measures, has been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details prior to the first occupation of the dwelling hereby approved and the agreed measures shall be retained and maintained in perpetuity.

REASON: to ensure that the development does not result in any additional phosphate loading in the River Avon Special Area for Conservation in the interests of ecology

13. There shall be no external lighting at the site.

REASON: In the interests of ecology and protected species

INFORMATIVES

- 1) The applicant is advised that the development hereby approved may represent chargeable development under the Community Infrastructure Levy Regulations 2010 (as amended) and Wiltshire Council's CIL Charging Schedule. If the development is determined to be liable for CIL, a Liability Notice will be issued notifying you of the amount of CIL payment due. If an Additional Information Form has not already been submitted, please submit it now so that we can determine the CIL liability. In addition, you may be able to claim exemption or relief, in which case, please submit the relevant form so that we can determine your eligibility. The CIL Commencement Notice and Assumption of Liability must be submitted to Wiltshire Council prior to commencement of development. Should development commence prior to the CIL Liability Notice being issued by the local planning authority, any CIL exemption or relief will not apply and full payment will be required in full and with immediate effect. Should you require further information or to download the CIL forms please refer to the Council's Website:
www.wiltshire.gov.uk/planninganddevelopment/planningpolicy/communityinfrastructurelevy.
- 2) The applicant's attention is drawn to the advice provided by Wessex Water in their consultation about this application dated 06.05.2020

82 **20/05322/VAR: 18 Burford Road, Harnham, SP2 8AN**

Public Participation

Miss Jay read a statement in objection to the application

Ms Argo read a statement on behalf of Mrs Volkes in objection to the application

Mr Flint read a statement in objection to the application.

Christos Chrysanthou, Planning Officer, presented the variation application for condition 5 of planning permission 18/00376/FUL [Condition 4 of Variation of condition approval 18/10898/VAR] to allow the hours of play in garden nursery from 09:00 to 18:00 Monday to Friday. The application was recommended for approval with conditions as detailed in the Officer report.

The site was in a residential area. The variation was in relation to the garden area of the nursery, the times of use and the numbers of children permitted to play at one time.

The garden was approx. 26m from rear elevation and 15m wide. The building was set approx. 1.5m away from the boundary.

Key issues highlighted included the planning history, in 2012, an appeal was allowed by the planning Inspector for a log cabin that was sited retrospectively. In 2018 there was an application for a single storey flat roof extension to replace the log cabin, this was approved with conditions, relating to the garden use, restricting the times of use as a children's play area to 09:00 to 18:00 Monday to Friday, carried over from the 2012 appeal decision.

A variation of condition application was then received, which requested an increase in numbers of children attending the nursery from 45 to 65. The hours of use condition was then adjusted at that time to allow for two separate windows of outdoor play, which were 09:00 – 11:30 and 14:30 – 16:00 Monday to Friday. This was discussed and agreed as acceptable by Public Protection (PP) with a maximum of 15 children playing outside at any one time. To minimise impact on neighbouring amenity.

The current application requests to revise the wording of the condition, to revert to the hours of 09:00 to 18:00, which was considered acceptable by PP, with the restriction of a maximum of 15 at any one time. There would also be an additional condition of a restriction of amplified music being played outside the building at any time during those hours.

Members of the Committee had the opportunity to ask technical questions to the officer. In response to queries, it was clarified that the basis for the original condition of the blockage of use of the garden over the lunch time period, was to protect the amenity of the neighbouring area and residents and that it was now felt that with the restriction to a maximum of 15 children able to play outside at one time, it was considered that allowing the hours to revert to 09:00 to 18:00 was acceptable.

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

Local Member Cllr Sven Hocking then spoke in objection to the application, noting that he completely agreed with the points of the three speakers in objection.

He acknowledged that some people would say that living near to school sites would experience a bit of noise, however, schools had break times and lunch times, if approved, the variation would permit the nursery to have all day outdoor play. This nursery did not operate half terms or summer holidays, it was in operation all year round.

He drew attention to the report which stated the department had not received any complaints, advising that there had actually been 20 or more complaints, which had been directed to different departments at the council.

Resident had been encouraged to make a log of any noise disturbance; however, this was not practical unless they were to remain at home all day every day.

The Public Protection suggested a noise management plan, but then advised that it was not feasible to enforce it. This was not the fault of the residents.

Cllr Hocking did not feel that there had been a supportive case for the change to the hours. The report stated under CP49, that the proposal would not unduly impact on neighbouring community and create undue noise, yet this variation would do that, making it worse for nearby residents.

Cllr Hocking then moved a motion of refusal, against Officer recommendation, stating the reasons as CP49 & PS5. Neighbouring amenity, and the Health and wellbeing of neighbouring residents, this was seconded by Cllr Dalton.

In the ensuing debate, Members considered the planning history in particular the variations to conditions, which individually may be minor, added up to a bigger picture over time. The impact on the neighbouring residents. The limit on the building and grounds to meet growing needs catered for by the nursery which was originally a 4-bedroom detached house.

Following debate, the Committee confirmed they had heard and seen all relevant visual materials and voted on the motion of refusal against officer recommendation with the reasons stated above. It was:

Resolved:

That application 20/05322/VAR be refused against Officer recommendation, for the following reasons:

- 1. The existing 65 place children's nursery is positioned in a residential area of Salisbury where residents can expect a reasonable level of quiet enjoyment during daytime hours. Planning permission 18/10898/var restricted the garden area to the hours of 09.30 and 11.30, and between 14.30 to 16.00 Mondays to Fridays, allowing residents to quietly enjoy their property between these hours. The reason for this was that it was "In the interests of the amenity of the area and to protect the living conditions of nearby residents". The removal of this part of the condition would allow the unrestricted use of the garden by up to 15 children and employees for a period of 9 hours a day 5 days a week. This level of intensive use of the garden area, it is considered, will lead to a noise level far in excess of what could reasonably be expected by residents living in close proximity to the site. As such, the proposal, it is considered, would be contrary to policy CP57 (vii) of the Wiltshire Core strategy which requires the local authority to have regard to the compatibility of adjoining buildings and uses, the impact on the amenities of existing occupants, and to ensure that appropriate**

levels of amenity are achievable within the development itself, including inter alia, noise.

83 **Urgent Items**

There were no urgent items

(Duration of meeting: 3.00 - 6.00 pm)

The Officer who has produced these minutes is Lisa Moore of Democratic Services, direct line (01722) 434560, e-mail lisa.moore@wiltshire.gov.uk

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