

# AGENDA

---

**Meeting:** Southern Area Planning Committee

**Place:** [Access the online meeting here](#)

**Date:** Tuesday 29 September 2020

**Time:** 3.00 pm

---

Please direct any enquiries on this Agenda to Lisa Moore, of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line (01722) 434560 or email [lisa.moore@wiltshire.gov.uk](mailto:lisa.moore@wiltshire.gov.uk)

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

This Agenda and all the documents referred to within it are available on the Council's website at [www.wiltshire.gov.uk](http://www.wiltshire.gov.uk)

---

## Membership:

Cllr Fred Westmoreland (Chairman)  
Cllr Richard Britton (Vice-Chairman)  
Cllr Brian Dalton  
Cllr Christopher Devine  
Cllr Jose Green  
Cllr Mike Hewitt

Cllr Leo Randall  
Cllr Sven Hocking  
Cllr George Jeans  
Cllr Ian McLennan  
Cllr John Smale

---

## Substitutes:

Cllr Trevor Carbin  
Cllr Ernie Clark  
Cllr Tony Deane  
Cllr John Walsh

Cllr Bridget Wayman  
Cllr Graham Wright  
Cllr Robert Yuill

---

## **Recording and Broadcasting Information**

Wiltshire Council may record this meeting for live and/or subsequent broadcast on the Council's website at <http://www.wiltshire.public-i.tv>. At the start of the meeting, the Chairman will confirm if all or part of the meeting is being recorded. The images and sound recordings may also be used for training purposes within the Council.

By joining the meeting you are consenting to being recorded and to the use of those images and recordings for broadcasting and/or training purposes.

The meeting may also be recorded by the press or members of the public.

Any person or organisation choosing to film, record or broadcast any meeting of the Council, its Cabinet or committees is responsible for any claims or other liability resulting from them so doing and by choosing to film, record or broadcast proceedings they accept that they are required to indemnify the Council, its members and officers in relation to any such claims or liabilities.

Details of the Council's Guidance on the Recording and Webcasting of Meetings is available on request. Our privacy policy can be found [here](#).

# AGENDA

## Part I

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

1 **Apologies**

To receive any apologies or substitutions for the meeting.

2 **Minutes of the Previous Meeting** (*Pages 7 - 18*)

To approve and sign as a correct record the minutes of the meeting held on 27 August 2020.

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. During the ongoing Covid-19 situation the Council is operating revised procedures and the public are able to participate in meetings online after registering with the officer named on this agenda, and in accordance with the deadlines below.

[Guidance on how to participate in this meeting online](#)

[Access the online meeting here](#)

### **Statements**

Members of the public who wish to submit a statement in relation to an item on this agenda should submit this in writing to the officer named on this agenda no later than 5pm on 24 September 2020.

Submitted statements should:

- State whom the statement is from (including if representing another person or organisation);
- State clearly whether the statement is in objection to or support of the application;
- Be readable aloud in approximately three minutes (for members of the public and statutory consultees) and in four minutes (for parish council representatives – 1 per parish council).

Those submitting statements are expected to join the online meeting to read the statement themselves, or to provide a substitute to read the statement on their behalf.

Up to three objectors and three supporters are normally allowed for each item on the agenda, plus statutory consultees and parish councils.

### **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 electronically to the officer named on the front of this agenda no later than 5pm on 22 September 2020 in order to be guaranteed of a written response.

In order to receive a verbal response questions must be submitted no later than 5pm on 24 September 2020.

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 members prior to the meeting and made available at the meeting and on the Council's website. Questions and answers will normally be taken as read at the meeting.

### 6 **Planning Appeals and Updates** *(Pages 19 - 20)*

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

### 7 **Planning Applications**

To consider and determine planning applications in the attached schedule.

#### 7a **19/11206/OUT: Land to the East of Wagtails, Southampton Road, Alderbury, SP5 3AF** *(Pages 21 - 52)*

Outline Application for up to 32 dwellings with all matters reserved (except access)

#### 7b **20/02624/FUL: The Old Dairy, Church Road, Milston, SP4 8HT** *(Pages 53 - 78)*

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.

#### 7c **20/05322/VAR: 18 Burford Road, Harnham, SP2 8AN** *(Pages 79 - 86)*

Variation of condition 5 of planning permission 18/00376/FUL to allow the hours of play in garden nursery from 09:00 to 18:00 Monday to Friday

### 8 **Urgent Items**

Any other items of business which, in the opinion of the Chairman, should be

taken as a matter of urgency

## **Part II**

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

This page is intentionally left blank

### Southern Area Planning Committee

---

#### MINUTES OF THE SOUTHERN AREA PLANNING COMMITTEE MEETING HELD ON 27 AUGUST 2020 AT ONLINE.

##### **Present:**

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

##### **Also Present:**

Cllr Bridget Wayman

---

#### 63 **Apologies**

Apologies were received from:

- Cllr Mike Hewitt
- Cllr George Jeans

#### 64 **Minutes of the Previous Meeting**

The minutes of the previous meeting held on 25 June 2020 were presented for consideration, and it was,

##### **Resolved:**

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

#### 65 **Declarations of Interest**

Councillor Leo Randall declared a non-pecuniary interest in applications 19/11239/FUL & 19/11801/LBC by virtue of being a member of Whiteparish Parish Council, which had previously considered the applications. He stated he would reconsider the application with an open mind and not predetermine the matter. Cllr Randal participated in the discussion and vote on this item.

#### 66 **Chairman's Announcements**

The Chairman explained the procedure should a recess be required.

#### 67 **Public Participation**

The committee noted the rules on public participation.

68 **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 13/06/20 to 13/08/20.**

69 **Planning Applications**

70 **20/02825/FUL - 2 Lower Mooray, Chilmark, SP3 5BA**

**Public Participation**

Sarah Miller (adjacent resident) spoke in objection of the application. Richard Packer and Lucy Packer/Neville-Rolfe (owners of 1 Lower Mooray) provided a statement in objection which was read out by the DSO. Francesca Mathieu, (owner of the property), spoke in support of the application.

Councillor Bev Small, on behalf of Chilmark Parish Council, spoke in objection of the application. For clarity, it was noted that the Chairman of Chilmark PC, Cllr Richard Packer had not participated in any meetings where the Parish council had discussed the application.

James Repper, Planning Officer, presented the application which was for the erection of a detached outbuilding, housing a double garage with office space to the side and to consolidate access and associated works. The application was recommended for approval with conditions as detailed in the Officer report.

Key issues highlighted included: principle of development; scale, design, impact to character, AONB and appearance of the area; and residential amenity and living conditions.

Members of the Committee had the opportunity to ask technical questions to the officer. In response to queries, it was clarified that the surface material for the proposed driveway was yet to be stipulated but would be conditioned to be non-porous to prevent any surface water flow onto the single-track lane. Officers confirmed that the garden area was part of the residential curtilage and clarified that extension policies included outbuildings or proposals detached from the main property.

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

Concerns were raised regarding the hedging encircling the application site and the dimensions of the proposed outbuilding to which officers reiterated the sizes and noted that due to the proposed roofing material, the height and angle of the roof was to compensate for this specific material and could not be altered in order to be in keeping with the AONB.



Local member Cllr Bridget Wayman spoke in objection of the application and noted her support of the Chilmark Parish Council's statement of objection. Cllr Wayman acknowledged the alterations and reductions in the size of the application but noted that the pictures and proposed site plans appeared to misrepresent the dimensions and size of the area. Reference was made to the age of the property and historical significance for the village, Cllr Wayman requested a condition be added to the application, if approved, to ensure the protection of any mature trees from damage or removal during the development.

The Chair, Cllr Fred Westmoreland, moved a motion to approve the application in line with officer recommendations, including any conditions, which Cllr Christopher Devine seconded.

In the ensuing debate, members considered the existing car parking arrangements and the increasing move towards home working in the current climate. The Committee queried the size of the outbuilding, where it was confirmed that the revised dimensions of the double garage were considered to be a standard size with the majority of the structure hidden behind the encircling hedging.

The Committee asked for clarification on the addition of a condition to protect the hedge along the proposed development. The Officer advised that it would be possible to apply such a condition.

Following debate the Committee confirmed they had heard and seen all relevant visual materials, and voted on the motion of approval in-line with officer recommendation, with the additional condition concerning the protection of the hedging and any mature trees. It was:

## **Resolved**

**The application 20/02825/FUL be approved, 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:**

**Application Form & Certificate Received 29th April 2020  
Revised Garage Elevations DWG: 1500/4B Received 25th June 2020**

Revised Garage Floorplans DWG: 1500/3C Received 25th June 2020  
Revised Site Plan DWG: 1500/2A Received 25th June 2020

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

- 3 The outbuilding hereby permitted shall not be occupied at any time other than for purposes incidental to the residential use of the main dwelling, known as 2 Lower Mooray 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.

- 4 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 space hereby permitted shall not be converted to habitable accommodation.**

**REASON:** To secure the retention of adequate parking provision, in the interests of highway safety.

- 5 The trees and boundary hedging located within the development site shall be protected with suitable protective fencing during the construction works, and such trees and hedging shall to be retained thereafter.**

**REASON:** To retain the verdant nature of the area and to protect the character of the site within the wider AONB, and to screen the approved development.

71 **19/11239/FUL & 19/11801/LBC - Dairy House Farm, Romsey Road, Whiteparish, SP5 2SF**

Public Participation

Peter Claydon (neighbouring residents) spoke in objection of the application.

Claire and Jason Wooldridge (neighbouring residents) spoke in objection to the application.

Shaun Wylie (applicant) provided a statement in support which was read out by the DSO

Maria Pennington (Clerk to Whiteparish Parish Council) spoke in objection to the application.

Richard Hughes, Development Management Team Leader, introduced a report on behalf of planning officer Christos Chrysanthou, which recommended approval, subject to conditions. The proposals were for a new swimming pool

and outbuilding; orangery; single storey link to existing lean-to accommodation; installation of new gates; and retrospective additions of a lean-to storage area, summerhouse and decking.

Officers clarified the areas of proposed development and retrospective developments on the application site plans and noted that as the original main property was a listed building. It was noted that members would need to vote on both the planning application and the listed building consent separately.

Key issues highlighted included: principle of development; scale, sitting, design and impact on amenity, noise, the setting, landscape character and character of the listed building; highways; and drainage.

Members of the Committee had the opportunity to ask technical questions to the officer. In response to queries surrounding the number of retrospective applications, officers noted that they were made aware of the previous developments upon site visits and as such included them within this application retrospectively for ease and efficiency. It was clarified for members which areas of development would be removed from the site if the application were to be refused.

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

The meeting was adjourned from 16:24pm to 16:27pm to allow for members to re-join following technical difficulties due to an electrical storm.

Local member Cllr Richard Britton spoke in objection of the application and cited the complexity of the application with reference to the amount of retrospective applications, resubmissions and amendments spanning over the course of several months. Cllr Britton noted his surprise of the Conservation Officer's non-objection. The perceived cumulative overdevelopment of the property was highlighted with reference made to Core Policy's 57 and 58 and Saved Policy's C24 and H31, and the local context of the property which was considered to be open countryside. Issues in regard to the drainage system were raised and feelings of frustration surrounding the arrangements and process that involved the Environmental Agency were noted.

A motion to refuse the application on the basis of not meeting Core Policy's 57 and 58 and Saved Policy's C24 and H31 was moved by Cllr Richard Britton, which was seconded by Cllr Leo Randall.

Members debated the overdevelopment of the site and the diminution of the original listed building, and whether each of the development areas in turn were intrusive or not to neighbours. Concerns were raised as to the materials used for construction of the lean-to accommodation to which officers clarified were stipulated to be removed and changed to more suitable materials if approved.

The main area of concern surrounded the drainage issues and the existing system of the disposal and discharge of foul water exiting into a public ditch

along the adjacent A27 road. In response to these concerns, officers reiterated that the responsibility of matters concerning foul drainage and swimming pool discharge was dealt with singularly by the Environmental Agency and added that it could be included within the informative if approved to ask the applicant to discuss the issues with the Environmental Agency.

Once members had confirmed they had heard and seen all relevant visual materials, a vote was taken on the motion of refusal.

The motion failed.

The Chairman, Cllr Fred Westmoreland then moved a motion of approval of the application in line with officer's recommendation, with the inclusion of conditions relating to the appearance and roofing materials of the external lean-to accommodation, and communication with the Environmental Agency regarding the foul drainage and swimming pool concerns. This motion was seconded by Cllr Christopher Devine.

With regards to application 19/11239/FUL, the Committee voted on the motion of approval with additional conditions:

### **Resolved**

**That applications 19/11239/FUL be approved, in line with officer recommendations, subject to the following conditions:**

**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:**

**Drg. No. 19:034:01REVD Block / Location Plan (revised) Date rec. 05/02/2020**

**Drg. No. 19:034:03REVG Proposed Site Plan (revised) Date rec. 18/05/2020**

**Drg. No. 19:034:06REVE Proposed Floor Plans (revised) Date rec. 05/02/2020**

**Drg. No. 19:034:07REVE Proposed Elevations (revised) Date rec. 05/02/2020**

**Drg. No. 19:034:08REVD New Outbuilding (revised) Date rec. 18/05/2020**

**Drg. No. 19:034:09REVA Proposed Windows Types A & B (revised) Date rec. 24/01/2020**

**Drg. No. 19:034:10REVA Proposed Window Types C (revised) Date rec.**

**24/01/2020**

**Drg. No. 19:034:11REVA Proposed Window Types D (revised) Date rec. 24/01/2020**

**Drg. No. 19:034:15REVC Proposed Eaves, Parapet & Roof Window Details (revised) Date rec. 18/02/2020**

**Drg. No. 19:034:16REVA Proposed Entrance Gates (revised) Date rec. 05/02/2020**

**Drg. No. 19:034:18REVA Existing Summer House Date rec. 18/05/2020**

**Drg. No. 19:034:19REVA Existing Storage Area & Lean-To Roof Date rec. 18/05/2020**

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

- 3 The Air Source Heat Pump to be installed must be in accordance with documentation submitted for the Mitsubishi Ultra quiet Ecodan unit (8.5kW) and maintained at all times thereafter.**

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

- 4 As shown on the submitted plan ref: 19:034:19 Rev A, within six calendar months of the date of this decision, the western elevation of the lean-to extension shall be clad with timber boarding to match the constructed eastern façade of the structure. Notwithstanding the above plan, within six calendar months of the date of this decision, the plastic corrugated roof on the lean-to extension shall be replaced with a roof consisting of a more appropriate visual appearance and materials for a listed structure, (such as slate or tile), details of which shall first have been submitted to and agreed in writing by the Local Planning Authority.**

**REASON: In the interests of preserving and enhancing the appearance and character of the listed building.**

**INFORMATIVE TO APPLICANT:**

**In the absence of any information submitted with the application, the Local Planning Authority is concerned that the existing drainage system and septic tank arrangements serving the property may no longer legally comply with current government regulations and may not adequately deal with the discharge from the additional approved works subject of this application. Furthermore, no details of the swimming pool drainage scheme appear to have been agreed. The Local Planning Authority therefore strongly advises that any such drainage consents required should be agreed prior to the works hereby approved being carried out.**

**The applicant is advised that notwithstanding this permission, to ensure that drainage is dealt with in a satisfactory manner, additional relevant permits from the Environment Agency and Wessex Water would be required in addition to compliance with building regulations. The Environment Agency advice can be found via the link below, but in summary, it states that if the pool has a capacity greater than 10,000**

litres and is designed to be refilled automatically with mains water, the applicant must inform their water and sewerage company or authority before works commence. The applicant should also check whether their water and sewerage company or authority has any specific requirements, such as using a water meter or supplying the pool from a holding tank.

The applicant must ensure that the plumbing system for the pool is installed and maintained to national requirements.

If the pool would require emptying, the applicant should check the best way to dispose of water with their environmental regulator or their water and sewerage company or authority. Authorisation will be needed to dispose of pool water into sewers, surface waters or ground waters. Usually the water will have to be stored in a vented storage pool to allow chlorine to disperse before disposal. This can take at least 5 days, depending on the volume of water.

Backwash water from the pool filter should be disposed of to a public foul sewer or public combined sewer. The applicant would need to check with their water and sewerage company or authority to see if they need authorisation. If a sewer is not available, the applicant may be able to discharge waste backwash water to a soakaway, but the applicant must make sure that there is no run-off to drains or surface waters. Septic tanks and small package sewage treatment plants are not suitable to treat pool filter backwash as the volume of water and chemicals damage the treatment process. If waste backwash water cannot be discharged to a sewer or a soakaway, the applicant may need to get it removed from site for disposal elsewhere.

Any hazardous substances such as chlorine as hazardous/special waste must be disposed of in a safe manner.

The applicant is advised to contact both the Environment Agency and Wessex Water.

Government guidance contained within the National Planning Practice Guidance (Water supply, wastewater and water quality - considerations for planning applications, paragraph 020) sets out a hierarchy of drainage options that must be considered and discounted in the following order:

1. Connection to the public sewer
2. Package sewage treatment plant (adopted in due course by the sewerage company or owned and operated under a new appointment or variation)
3. Septic Tank

Foul drainage should be connected to the main sewer. Where this is not possible, under the Environmental Permitting Regulations 2016 any

**discharge of sewage or trade effluent made to either surface water or groundwater will need to be registered as an exempt discharge activity or hold a permit issued by the Environment Agency, addition to planning permission. This applies to any discharge to inland freshwaters, coastal waters or relevant territorial waters.**

**Please note that the granting of planning permission does not guarantee the granting of an Environmental Permit. Upon receipt of a correctly filled in application form we will carry out an assessment. It can take up to 4 months before we are in a position to decide whether to grant a permit or not.**

**Domestic effluent discharged from a treatment plant/septic tank at 2 cubic metres or less to ground or 5 cubic metres or less to surface water in any 24 hour period must comply with General Binding Rules provided that no public foul sewer is available to serve the development and that the site is not within an inner Groundwater Source Protection Zone.**

**A soakaway used to serve a non-mains drainage system must be sited no less than 10 metres from the nearest watercourse, not less than 10 metres from any other foul soakaway and not less than 50 metres from the nearest potable water supply.**

**Where the proposed development involves the connection of foul drainage to an existing non-mains drainage system, the applicant should ensure that it is in a good state of repair, regularly de-sludged and of sufficient capacity to deal with any potential increase in flow and loading which may occur as a result of the development.**

**Where the existing non-mains drainage system is covered by a permit to discharge then an application to vary the permit will need to be made to reflect the increase in volume being discharged. It can take up to 13 weeks before we decide whether to vary a permit.**

**Further advice is available at:**

**<https://www.gov.uk/guidance/discharges-to-surface-water-and-groundwater-environmental-permits#when-you-do-not-need-a-permit>**

**<https://www.gov.uk/permits-you-need-for-septic-tanks/you-have-a-septic-tank-or-small-sewage-treatment-plant>**

The Chairman, Cllr Fred Westmoreland then moved a motion of approval with regards to application 19/11801/LBC, the Listed Building Consent. This was seconded by Cllr Christopher Devine.

Richard Hughes, Development Management Team Leader, reminded members that the same conditions stipulated for the lean-to accommodation in the prior application must be included within the Listed Building Consent vote.

Members of the Committee voted on the motion to approve the Listed Building Consent; following which it was:

### **Resolved**

**That the Listed Building Consent ref: 19/11801/LBC, be approved in line with officer recommendations, subject to the following conditions:**

- 1 The works for which Listed Building Consent is hereby granted shall be begun before the expiration of three years from the date of this consent.**

**REASON: To comply with the provisions of Section 18 of the Planning (Listed Buildings and Conservation Areas) 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:**

**Drg. No. 19:034:01REVD Block / Location Plan (revised) Date rec. 05/02/2020**

**Drg. No. 19:034:03REVG Proposed Site Plan (revised) Date rec. 18/05/2020**

**Drg. No. 19:034:06REVE Proposed Floor Plans (revised) Date rec. 05/02/2020**

**Drg. No. 19:034:07REVE Proposed Elevations (revised) Date rec. 05/02/2020**

**Drg. No. 19:034:08REVD New Outbuilding (revised) Date rec. 18/05/2020**

**Drg. No. 19:034:09REVA Proposed Windows Types A & B (revised) Date rec. 24/01/2020**

**Drg. No. 19:034:10REVA Proposed Window Types C (revised) Date rec. 24/01/2020**

**Drg. No. 19:034:11REVA Proposed Window Types D (revised) Date rec. 24/01/2020**

**Drg. No. 19:034:15REVC Proposed Eaves, Parapet & Roof Window Details (revised) Date rec. 18/02/2020**

**Drg. No. 19:034:16REVA Proposed Entrance Gates (revised) Date rec. 05/02/2020**

**Drg. No. 19:034:18REVA Existing Summer House Date rec. 18/05/2020**

**Drg. No. 19:034:19REVA Existing Storage Area & Lean-To Roof Date rec. 18/05/2020**

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

- 3 No development shall commence on site until details of the Natural slate roof tiles and the grey angled tiles to be used on the outbuilding hereby approved have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with**



the approved details.

**REASON:** In the interests of preserving the character and appearance of the listed building and its setting.

- 4 As shown on the submitted plan ref: 19:034:19 Rev A, within six calendar months of the date of this decision, the western elevation of the lean-to extension shall be clad with timber boarding to match the constructed eastern façade of the structure. Notwithstanding the above plan, within six calendar months of the date of this decision, the plastic corrugated roof on the lean-to extension shall be replaced with a roof consisting of a more appropriate visual appearance and materials for a listed structure, (such as slate or tile), details of which shall first have been submitted to and agreed in writing by the Local Planning Authority.

**REASON:** In the interests of preserving the appearance and character of the listed building.

**INFORMATIVE**

The applicant's attention is drawn to the drainage related informatives on the associated planning permission.

With regards to condition 03 & 04 above, a Discharge of Conditions application will be needed to satisfy this condition. Note that condition 04 requires the replacement of the existing roof material on the existing structure, and enhancement of the existing structure. The LPA is of the opinion that the existing corrugated material currently in place on this structure is not acceptable for a listed structure.

72 **Urgent Items**

There were no urgent items.

The Chairman informed Members that site visits were now taking place again.

(Duration of meeting: 3.00 - 5.17 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](mailto:lisa.moore@wiltshire.gov.uk)

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

This page is intentionally left blank

**Wiltshire Council**  
**Southern Area Planning Committee**  
**29<sup>th</sup> September 2020**

Planning Appeals Received between 13/08/2020 and 18/09/2020

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Appeal Start Date	Overturn at Cttee
19/11523/FUL	Cranbourne Farm Barn Old Blandford Road Coombe Bissett SP5 4LF	COOMBE BISSETT	Conversion of two existing agricultural barns to form a single storey residential dwelling (Use Class C3) and carport, associated landscaping and access.	DEL	Written Representations	Refuse	04/09/2020	No
20/01995/FUL	45-49 Catherine Street Salisbury, SP1 2DH	SALISBURY CITY	New signage board above the shop frontage	DEL	Written Representations	Refuse	03/09/2020	No
20/02631/LBC	45-49 Catherine Street Salisbury, SP1 2DH	SALISBURY CITY	New signage board above the shop frontage	DEL	Written Representations	Refuse	03/09/2020	No
20/04333/VAR	Barn to the Southwest of Manor View Landford Wood Farm Landford Wood Wiltshire, SP5 2ES	LANDFORD	Proposed removal of condition 3 of 20/01172/FUL	DEL	Written Representations	Refuse	04/09/2020	No
20/04435/PNCOU	Manor Farm Maiden Bradley Warminster, Wiltshire BA12 7HY	MAIDEN BRADLEY WITH YARNFIELD	Notification under Class R to Determine if Prior Approval Required for a Proposed Conversion of Agricultural Buildings to a Flexible Commercial Use for a Furniture Showroom Specialising in the Sale (A1 Retail) of Bespoke and Antique Furniture with Ancillary Office (B1)	DEL	Written Representations	Refuse	09/09/2020	No

Planning Appeals Decided between 13/08/2020 and 18/09/2020

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Appeal Decision	Decision Date	Costs Awarded?
19/01170/FUL	Land opposite Viste Orcheston, Wiltshire	ORCHESTON	Creation of an access gateway and track to agricultural land	DEL	Written Reps	Refuse	Dismissed	15/09/2020	None
19/03930/OUT	Land Adjacent 1 Witt Road, Winterslow Salisbury, Wiltshire SP5 1PL	WINTERSLOW	Erection of 3 detached dwellings, garages, parking and access following demolition of 3 existing buildings (Outline application relating to access and layout - resubmission of 18/02580/OUT)	DEL	Written Reps	Refuse	Dismissed	03/09/2020	Appellant applied for Costs - <b>REFUSED</b>
19/04479/FUL	45-49 Catherine Street Salisbury, SP1 2DH	SALISBURY CITY	Proposed additional floor to create 3 x one-bedroom flats & 3 x two-bedroom flats	DEL	Written Reps	Refuse	Dismissed	01/09/2020	None
19/04863/FUL	Land at Ringwood Avenue, Amesbury SP4 7PZ	AMESBURY	Erection of 19 affordable dwellings, creation of access, landscaping, parking and associated works.	SAPC	Written Reps	Approve with Conditions	Allowed with Conditions	21/08/2020	None
19/05270/LBC	45-49 Catherine Street Salisbury, SP1 2DH	SALISBURY CITY	Proposed additional floor to create 3 x one-bedroom flats & 3 x two-bedroom flats	DEL	Written Reps	Refuse	Dismissed	01/09/2020	None
19/08975/OUT	Haven Court Marshmead Close Clarendon, SP5 3DD	CLARENDON PARK	Outline planning permission to demolish the existing 11-bedroom HMO, and to erect 5 dwellings with associated parking and access. Access is the only matter for which approval is sought at this stage, with all other matters reserved.	DEL	Written Reps	Approve with Conditions	Allowed with Conditions	02/09/2020	Appellant applied for Costs - <b>REFUSED</b>
19/09902/FUL	Oak Tree Farm Crawlboys Lane Ludgershall, SP11 9PL	LUDGERSHALL	Demolition of poultry shed and agricultural store and erection of 5 no. dwellings with access and parking. Erection of new agricultural store (resubmission of 18/09957/FUL)	DEL	Written Reps	Refuse	Dismissed	02/09/2020	None
20/00269/FUL	Longhedge Farm House Longhedge SP4 6BW	DURNFORD	Erection of two dwellings with associated landscaping, car parking, bin store and improvements to existing access.	DEL	Written Reps	Refuse	Dismissed	09/09/2020	None
20/01798/FUL	Barn to the south of Stock Lane Landford Wood Farm Landford Wood, SP5 2ER	LANDFORD	Demolition of the existing agricultural barn and the erection of a detached replacement dwelling, hard and soft landscaping and associated works	DEL	Written Reps	Refuse	Dismissed	15/09/2020	None

**REPORT FOR SOUTHERN AREA PLANNING COMMITTEE**

**Report No.**

<b>Date of Meeting</b>	29 <sup>th</sup> September 2020
<b>Application Number</b>	19/11206/OUT
<b>Site Address</b>	Land to the East of Wagtails Southampton Road Alderbury SP5 3AF
<b>Proposal</b>	Outline Application for up to 32 dwellings with all matters reserved (except access)
<b>Applicant</b>	1215 Heritage Homes
<b>Town/Parish Council</b>	ALDERBURY
<b>Electoral Division</b>	Councillor Richard Britton ALDERBURY AND WHITEPARISH
<b>Grid Ref</b>	419031 126982
<b>Type of application</b>	Outline Planning
<b>Case Officer</b>	Lynda King

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

Following a protracted period of discussions and negotiations, the applicant has chosen to exercise their right to appeal against non-determination of the application. This means that the Council no longer has the powers to formally determine the application, as this power now rests with the Planning Inspectorate. The matter is scheduled to be considered via a Written Representations Appeal later this year. The views of the Committee on the application are now sought to enable the Council to make its case to the Inspector.

**1. Purpose of Report**

As the applicants have appealed against the non-determination of the application, this report is intended to outline to Members the issues and outstanding matters surrounding the application, and to seek Members views on how they would have determined the application if they had retained the powers to do so. The report below outlines the issues and reasons for refusal officers consider form the basis for a defence of the appeal. Following Members consideration of this report, and depending on the outcome, officers will then defend the Council's position at the appeal.

## 2. Report Summary

1. Principle and Policy issues
2. Impact on residential amenity
3. Impact on highway systems
4. Impact on ecology
5. Drainage and flooding issues
6. S106 and viability matters

**Alderbury Parish Council** resolved to "object" to this planning application for the following reasons: -

1. The site is outside of the housing settlement boundary.
2. The whole of the proposed area was previously covered with a large number of very mature trees (approximately 150) and these have all been removed (ringbarked and cut down) prior to the planning application being submitted.
3. Concern about the drainage of the site as it was previously populated by 150 mature trees. There are severe problems currently affecting several roads and houses surrounding the site which were not evident at the time of the previous application.
4. The proposed development is not in keeping with neighbouring properties (Junction road and Southampton Road). The view of this area previously was of mature trees, a wooded area.
5. Some of the new dwellings will overlook neighbouring properties.
6. All traffic will enter/exit in one place, including the houses from the neighbouring site behind Wagtails and Wagtails itself, which means that potentially more than 40 houses and the associated traffic will come in and out of this site. Volumes of traffic are likely to be high.
7. There are several other roads that exit onto Southampton Road in this area, which concerns residents about Highway safety, the entrance to the Heathers, Lights Lane and Junction Road as well as bus stops nearby, there are many children using the pavements to walk to and from school.
8. Residents' day to day experience on this stretch of road is at odds with the view of the Highways department.  
  
There was a recent accident in the vicinity involving a parked car which we would like to draw their attention to. We would therefore ask if Highways continue to take the view that there is no issue, we would welcome their assurance that an extended traffic survey has been done to justify that position.
9. The application is contrary to Core Policy CP57 in respect of compatibility of adjoining buildings and uses and the impact on the amenities of existing occupants and CP51 as the character of the landscape of the proposed area has been destroyed by cutting down a large number of mature trees which has had a detrimental impact on the environment and associated wildlife.
10. The parish already has two other new housing developments which have been approved, increasing the number of houses locally by over 80 houses. As these have not yet



Excerpt from the WHSAP (above top) in which the settlement boundary (WCS 2015) is defined in blue and the revised boundary (WHSAP 2020) is defined in black/red. Site location plan (above) also showing land edged in blue owned by the applicant with extant consent for 5 new dwellings (currently under construction following grant at appeal for 2 additional dwellings).



Aerial photo of application site with land to the west cleared prior to the construction of 5 dwellings now nearing completion.

The site lies outside but directly adjacent to the existing settlement boundary for Alderbury, as defined by the former Salisbury District Local Plan (adopted 2003) and carried forward and retained into the Wiltshire Core Strategy, which was adopted in January 2015. The Wiltshire Housing Site Allocations Plan 2020 (WHSAP) extended the settlement boundary for Alderbury up to the north western boundary of the site. This has the effect of the site being directly adjacent to the settlement boundary on three sides, rather than two when the previous application (19/03480/OUT) was determined.

A site to the north of the application site, known as Land off Firs Road, Alderbury, was recently granted planning permission on appeal (*see below for further discussion*)

The site is currently open in character, as the substantial number of trees that were originally on the land were effectively clear felled in 2018. A few boundary trees remain.

The site is bounded by residential development on three sides, and has a public footpath running along its northern boundary. The land to the north of this footpath also has planning permission for residential development, which has yet to be implemented.

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

**15/11933/FUL** – Residential development of 3 dwellings and associated works (Refused 04.02.2016)



**16/04775/FUL** – Demolition of Wagtails and erection of 3 dwellings and associated works (refused 04.02.2016)

**17/03136/FUL** – Removal of condition 11 of planning permission 16/04775/FUL to allow retention of Wagtails alongside erection of 3 dwellings to the rear (Approved 24.05.2017)

**18/07786/FUL** – Revised layout to planning permission 16/04775/FUL to allow for two additional dwellings (Refused 12.10.2018, Appeal dismissed 08.08.2019)

**18/10448/FUL** – Revised layout application with two additional dwellings following refusal of 18/07786/FUL (refused 20.12.2018 Appeal Allowed 08.08.2019)

**19/03480/OUT** - Outline application for up to 36 dwellings with all matters reserved, except for access (Refused 02.07.2019)

**(17/04001/OUT** - Residential Development of up to 50 dwellings, associated parking and access (off Firs Road), open space and infrastructure, relocated guide hut, new pre-school building, and land to extend primary school playing field. Appeal allowed 7.12.2018. Land adjacent to application site)

## **5. The Proposal**

The application, which is in outline with all matters except access reserved, is for the construction of up to 32 dwellings on land to the east of Wagtails, Southampton Road, Alderbury.

Access to the site is proposed off the newly created access from Southampton Road to serve to the site for 5 dwellings recently granted consent at appeal (see history above). These dwellings are nearing completion and the access proposed was in excess of that required to serve this limited number of units, and can accommodate the level of development proposed by the scheme, the subject of this application.



Indicative layout showing dwellings under construction to the west and the indicative layout of the scheme granted on appeal to the north.

## 6. Planning Policy

For the purposes of this application, the following policies are considered most relevant:

### 6.1 National Planning Guidance

NPPF, NPPG

### 6.2 Wiltshire Core strategy policies

The Wiltshire Core Strategy was adopted in January 2015.

The main policies relevant to the consideration of this application include:

- CP1 Settlement strategy
- CP2 Delivery Strategy
- CP3 Infrastructure Requirements
- CP23 Southern Wiltshire Community Area Strategy
- CP43 Providing Affordable Homes
- CP45 Meeting Wiltshire's Housing Needs
- CP50 Biodiversity and geodiversity

Other policies may also need to be taken into account in relation to the proposed development, including the following:

- CP41 Sustainable Construction and Low Carbon Energy
- CP44 Rural Exception Sites
- CP51 Landscape
- CP52 Green Infrastructure
- CP56 Contaminated Land
- CP57 Ensuring high quality design and place shaping
- CP58 Ensuring the conservation of the historic environment
- CP60 Sustainable Transport
- CP61 Transport and New Development
- CP62 Development Impacts on the Transport Network
- CP64 Demand Management
- CP67 Flood Risk
- CP68 Water Resources
- Saved SDLP Policy R2
- Saved SDLP Policy C9
- Adopted SPG design guide 'Creating Places'

Wiltshire Council Planning Obligations DPD

Wiltshire Housing Sites Allocation Plan 2020

## 7. Summary of consultation responses

**Wiltshire Council Archaeologist** – No objection subject to conditions

**Lead Local Flood Authority** – No objection, subject to conditions, to amended details

**Wiltshire Council Open space** - Object, until additional financial contributions required for impacts of dwellings on play space and equipment provision are provided via a S106. The area of play space within the site is policy compliant.

**Wiltshire Council Housing** – Object, until 40 percent affordable housing provided in line with Policy CP43, unless viability assessment indicates that a lesser provision is required. The number of units and housing mix proposed by the developer is policy compliant, subject to securing the provision via a S106 agreement.

**Wiltshire Council Education** – Objection until financial contributions for secondary provision, and early years provision have been secured via a S106

**Wiltshire Crime Prevention** – Overall the development has addressed most crime prevention considerations, subject to suggestions for the final layout.

**Wiltshire Environmental Health** – no objection subject to conditions

**Highways England** – No objection to previous scheme for 36 dwellings

**Wiltshire Waste Management** – Object, until financial contributions for the provision of waste and recycling containers has been secured via a S106 agreement

**Wiltshire Spatial Planning** - The site is on greenfield land, to the north of several detached properties that front onto Southampton Road, Alderbury. It is outside the existing settlement boundary but directly adjacent to it on two sides.

The site lies outside but directly adjacent on two sides to the existing settlement boundary for Alderbury. The emerging Wiltshire Housing Site Allocations Plan proposes to extend the settlement boundary for Alderbury up to the north western boundary of the site as well.

It is now likely that adoption of the Plan will take place in early 2020. Examination hearing sessions took place in April and, in June, the Council received a letter from the Inspector's outlining the next steps, to include a consultation on Main Modifications, which closed in October 2019. In this letter, the Inspector commented that the Council's approach and methodology are robust and that changes previously submitted with the Plan are necessary. However, it should be noted that this was the Inspector's initial advice, prior to the consultation on Further Main Modifications, and not his final conclusions. These will be contained within his report in due course.

Settlement boundaries can also be reviewed by the community through a neighbourhood plan. However, the neighbourhood plan for Alderbury and Whaddon has not progressed beyond the initial stage of area designation, which was granted in April 2014.

The proposed development would need to demonstrate that it is in accordance with the spatial strategy for the Southern Wiltshire Community Area, as set out in Core Policy 23, and other relevant policies as listed above.

The latest evidence published by Wiltshire Council (the Housing Land Supply Statement (HLSS) Update, base date April 2018, published August 2019) indicates that there is currently a deficit in the 5-year supply in the South Wiltshire HMA. Therefore, Paragraph 11 (d) of the NPPF is engaged and there is a presumption in favour of sustainable development.

In the short-term, the Wiltshire Housing Site Allocations Plan and, over the longer-term, the emerging Local Plan Review, will also identify additional sites to ensure the delivery of housing land across the plan period in order to maintain a five year land supply in each Housing Market Area.

#### **Wiltshire Ecology - Conclusion in Summary**

It is deemed that the proposed enhancement measures will not, contrary to the conclusion put forward in the Ecology Statement (see last extract), suitably compensate for the loss of ecological resource which has already taken place at the application site and will not achieve a net gain in biodiversity. Whilst the inclusion of bat and bird boxes within the built design is welcomed, the proposed compensation in terms of proposed planting is inadequate and it is considered will not suitably offset the existing losses. Furthermore, the scheme layout has no buffer zones along site boundaries and instead proposes that all residential gardens extend right up to the site boundaries thereby providing no assurance that the boundary vegetative features will be protected and retained long term or kept as dark corridors for bats. Most of the species being proposed for planting are non-native and ornamental rather than being of local provenance and selected for their value to wildlife. The provision of a 1m border within residential gardens is inadequate as compensation for the pre-existing ecological losses, and the retention and management of these areas cannot be enforced once properties are occupied. In addition, most of the trees shown on the Site Layout drawing (Drawing Number 1215\_01, Revision 01, 21.11.2019) are existing boundary trees

or trees on adjacent land; there is very little proposed in terms of new tree planting according to the submitted plan and certainly insufficient to compensate for the losses.

**Given the conclusion put forward by the applicant that the development will achieve a biodiversity net gain, it is requested that this is quantitatively demonstrated by means of completion of the Biodiversity Metric 2.0. The results should be issued to the Council for review.**

Furthermore, it should be noted, as was identified in relation to the previous planning application, that the application site is located within the New Forest 8km buffer which triggers the requirement for HRA to be undertaken by the competent authority i.e. Wiltshire Council. This will be undertaken once resolutions to the issues set out within this email have been progressed.

Until the matters set out within this response have been suitably addressed I cannot withdraw my objection

## **8. Third Parties/ Publicity**

**Alderbury Parish Council** resolved to "object" to this planning application for the following reasons: -

1. The site is outside of the housing settlement boundary.
2. The whole of the proposed area was previously covered with a large number of very mature trees (approximately 150) and these have all been removed (ringbarked and cut down) prior to the planning application being submitted.
3. Concern about the drainage of the site as it was previously populated by 150 mature trees. There are severe problems currently affecting several roads and houses surrounding the site which were not evident at the time of the previous application.
4. The proposed development is not in keeping with neighbouring properties (Junction road and Southampton Road). The view of this area previously was of mature trees, a wooded area.
5. Some of the new dwellings will overlook neighbouring properties.
6. All traffic will enter/exit in one place, including the houses from the neighbouring site behind Wagtails and Wagtails itself, which means that potentially more than 40 houses and the associated traffic will come in and out of this site. Volumes of traffic are likely to be high.
7. There are several other roads that exit onto Southampton Road in this area, which concerns residents about Highway safety, the entrance to the Heathers, Lights Lane and Junction Road as well as bus stops nearby, there are many children using the pavements to walk to and from school.
8. Residents' day to day experience on this stretch of road is at odds with the view of the Highways department.

There was a recent accident in the vicinity involving a parked car which we would like to draw their attention to. We would therefore ask if Highways continue to take the view that there is no issue, we would welcome their assurance that an extended traffic survey has been done to justify that position.

9. The application is contrary to Core Policy CP57 in respect of compatibility of adjoining buildings and uses and the impact on the amenities of existing occupants and CP51 as the character of the landscape of the proposed area has been destroyed by cutting down a large number of mature trees which has had a detrimental impact on the environment and associated wildlife.

10. The parish already has two other new housing developments which have been approved, increasing the number of houses locally by over 80 houses. As these have not yet been completed the cumulative effect of traffic from these sites is as yet unknown, on top of current concerns regarding the volumes and speed of traffic using Southampton Road through the village. Recent metro counts have shown that volumes of traffic travelling through the village at peak times is already high. Volumes also increase to avoid traffic problems on the A36 as motorists use the village as a shortcut.

11. There should be a consideration on the rate of growth of Alderbury as a village. It is not sustainable and the risks associated with it should be addressed.

**Third Parties** - The Council's record system indicates that 34 letters of objection have been received in respect of this application, along with 5 letters of support and 4 further comments, many raising concerns about the impact of the development on the surrounding area and the loss of the trees on the site. The issues raised include:

Object.

- No development should be permitted due to the destruction of the trees on the site without permission
- Local wildlife was destroyed when the trees were felled
- More traffic will be dangerous to pedestrians and will discourage walking to school
- Too many houses proposed
- Access onto Southampton Road will be dangerous as it is close to a crossroads and there are 2 bus stops in the vicinity
- Neighbouring properties will suffer disturbance from traffic using the site
- Insufficient car parking
- No compensatory measures to replace the biodiversity lost when the trees were felled
- Drainage concerns, especially of surface water run off
- Meagre proposals to enhance local facilities
- Request retrospective TPOs to replace lost trees
- Concerned about the lack of communication or dialogue with the community by developers prior to the application being submitted
- This and other consented schemes in the village will bring no commensurate improvements in infrastructure
- Density too high
- Development out of keeping with detached nature of surrounding development
- Ecological reports do not relate to this site
- Wiltshire has a 5 Year housing land supply therefore the development is not needed
- Development will put pressure on future school places and the school has no room to expand
- Local properties will be affected by increased water run off
- No biodiversity audit was taken before the trees were felled so biodiversity gain cannot be proven
- Site will be clearly visible from the public footpath which runs from Junction Road to Firs Road
- Proposed tree planting will go nowhere near replacing those lost

- Village infrastructure is poor and cannot accommodate additional development
- The site is outside the defined settlement limits according to the Wiltshire Core Strategy
- No need for additional affordable housing in the village
- No evidence of essential need for this development outside the settlement boundary
- Consent already exists for an additional 80 dwellings in the village and it doesn't need any more

#### Support

- Need the development if the village facilities (pub, shop, school, post office etc) are to survive
- Affordable housing will allow young people to stay in their own village rather than having to move away
- Traffic increases with development so suggest use the bus service instead
- Football club broadly support any development that will bring young families to the village to use the club
- The trees that were removed were in an overgrown garden which fell into decline due to the occupier being involved in an accident, and they were only 61 years old
- There is still wildlife in the area
- Access onto the Southampton Road is adequate
- The site before the trees were cut down was becoming increasingly derelict and home to vermin, including rats
- The site is landlocked and should be developed
- Current school is under subscribed

#### Comment

- The site is subject to a restrictive covenant limiting the number of dwellings to 2 per acre.

## 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.

The site was the subject of an earlier planning application, also in outline, for 36 dwellings (19/03480/OUT) which was refused planning permission under delegated powers in July 2019. This application was refused for 5 reasons, which are outlined below:-

- 1) Although no 5 year Housing Land Supply could be demonstrated, it is considered that the development would have an adverse impact on the character of the area, and would give rise to ecological and archaeological concerns.
- 2) Over development of the site and out of character with the area
- 3) Inadequate information to demonstrate that the site can be drained satisfactorily
- 4) Ecological issues arising from the clear felling of the trees on the site
- 5) Insufficient provision for contributions towards affordable housing, public open space and waste and recycling requirements.

The current application seeks to overcome the above reasons for refusal where possible.

a. Principle of development

The site lies outside but directly adjacent to the existing settlement boundary for Alderbury, as defined by the former Salisbury District Local Plan (adopted 2003) and carried forward and retained into the Wiltshire Core Strategy, which was adopted in January 2015. The Wiltshire Housing Site Allocations Plan (WHSAP) (adopted 2020) extended the settlement boundary for Alderbury up to the north western boundary of the site. This has the effect of the site being directly adjacent to the settlement boundary on three sides, rather than two as when the previous application (19/03480/OUT) was determined. A site to the north of Land to the east of Wagtails, Land off Firs Road, Alderbury, was recently granted planning permission on appeal (*see below for further discussion*).

Core Policy 2 (Delivery Strategy) states that

***“Within the defined limits of development***

*Within the limits of development, as defined on the policies maps accompanying the Core Strategy, there is a presumption in favour of sustainable development at the Principal Settlements, Market Towns (including Westbury), Local Service Centres and Large Villages.*

***Outside the defined limits of development***

*Other than in circumstances as permitted by other policies within this plan, identified in paragraph 4.25 (of the adopted Wiltshire Core Strategy), development will not be permitted outside the limits of development, as defined on the policies map. The limits of development may only be altered through the identification of sites for development through subsequent Site Allocations Development Plan Documents and neighbourhood plans”.*

The exceptions policies referred to in paragraph 4.25 are as follows:

- Additional employment land (Core Policy 34)
- Military establishments (Core Policy 37)
- Development related to tourism (Core Policies 39 and 40)
- Rural exception sites (Core Policy 44)
- Specialist accommodation provision (Core Policies 46 and 47)
- Supporting rural life (Core Policy 48) – *see below for further discussion*

The settlement boundaries were recently reviewed as part of the Wiltshire Housing Site Allocations Plan, as set out in the council’s Local Development Scheme, to ensure that they are up to date and can adequately reflect changes which have happened since they were first established. The Plan also sought to identify additional sites to ensure the delivery of housing land across the plan period in order to attempt to maintain a five year land supply in each Housing Market Area. It will also be the prerogative of the community to review settlement boundaries through a neighbourhood plan. The designation of Alderbury and Whaddon Neighbourhood Area was approved in April 2014; however the neighbourhood plan has not progressed beyond this initial stage at the time of writing.

**Spatial strategy for the Southern Wiltshire Community Area (Core Policy 23)**

The overall strategy for the Southern Wiltshire Community Area is to provide for balanced growth of both housing and employment to deliver sustainable communities and help address the shortfall in affordable housing.

Development will need to take into account the Community Area’s location within a nationally designated landscape, i.e. the Cranborne Chase and West Wiltshire Downs Area of Outstanding Natural Beauty and the New Forest National Park. It will deliver a modest and sustainable level of development with the overall objective of conserving the designated landscapes.



Specific issues to be address in planning for the Southern Wiltshire Community Area include:

- strategic growth would be inappropriate, partly due to congestion on the A36
- transport assessments required for all major applications proportionate to the scale of development, which must include an assessment of congestion on the A36
- some managed growth is necessary to support ongoing business growth and development, to ensure the existing strong employment opportunities in the area are maintained
- limited development will also help to address the shortfall in affordable housing in the area
- the New Forest National Park is an important resource and so protecting the natural environment is a priority
- ongoing protection and enhancement of the stone curlew and calcareous grassland habitat at Porton Down
- development in the vicinity of the River Avon (Hampshire) must incorporate appropriate measures to ensure that it will not adversely affect the integrity of this Special Area of Conservation

### **Status of the development plan**

#### National Planning Policy Framework

The Revised National Planning Policy Framework (NPPF), published in July 2018 and updated in February 2019, presents a presumption in favour of sustainable development at paragraph 11. This forms the basis of a ‘golden thread’ running through plan making and decision taking.

Paragraph 47 of the NPPF states that *‘planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise’*.

Therefore, proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise.

Chapter 2 constitutes what sustainable development means in practice. The sections of the NPPF that are considered relevant to this application, as well as paragraph 11 and Chapter 2, include:

- Chapter 5 - Delivering a sufficient supply of homes

#### The Development Plan

In accordance with section 38(6) of the Planning and Compulsory Purchase Act 2004, applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

### **5-year housing supply**

NPPF paragraph 73 requires that, to deliver a sufficient supply of homes, *“local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years’ worth of housing against their housing requirement”* (with appropriate buffer). NPPF paragraph 11 identifies relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites (including appropriate buffer, as set out in paragraph

73), or where the Housing Delivery Test indicates that the delivery of housing was substantially below the housing requirement over the previous three years<sup>1</sup>.

The proposed development lies within the South Wiltshire Housing Market Area (HMA). The latest published evidence (the Housing Land Supply Statement (HLSS), base date April 2018, published August 2019) indicates that there is currently a deficit in the 5-year supply in the South Wiltshire HMA. Specifically, Table 2a of the HLSS August 2019 indicates that there is 4.45 years of deliverable supply in the South Wiltshire HMA. The supply is made up of qualifying permissions, and allocations from saved district Local Plans, Wiltshire Core Strategy, Chippenham Site Allocations Plan, and well-advanced Neighbourhood Plans. The supply from the allocations in the emerging Wiltshire Housing Site Allocations Plan are not included in this Statement but will be included in a future Statement. Appendix 6 to the HLSS August 2019 sets out the indicative remaining requirement in the Southern Wiltshire Community Area for the rest of the Core Strategy period, up to 2026, which is 0 dwellings (Downton Town) and 0 dwellings (Southern Wiltshire Community Area remainder), with an overall requirement of 0 dwellings.

Paragraph 11 (d) and footnote 7 of the NPPF state that where a Local Planning Authority cannot demonstrate a 5-year housing land supply of deliverable sites, for applications including housing provision, the policies which are most important for determining the application should be considered out-of-date. As a result, the presumption in favour of sustainable development (often referred to as the 'tilted balance') should be applied and permission should be granted unless protection policies set out in footnote 6 of the NPPF apply, or adverse impacts of granting permission would significantly and demonstrably outweigh the benefits.

This does not mean that in these circumstances all applications for housing should be permitted. However, it does mean that the most important policies, including Core Policy 2 of in relation to settlement boundaries and housing requirements, should not have full weight applied to them in the decision-making exercise. The weight to be attributed to such policies is a matter of judgment for the officer.

Whilst the Council are unable to demonstrate a 5-year housing land supply in the South Wiltshire HMA, officers will need to consider decisions on housing proposals in this HMA. This means balancing the need to boost housing supply against any adverse impacts of the proposal, considered against the development plan as whole, and any material considerations on a case-by-case basis. There will also be a need for consideration of what weight to assign to the housing policies. Officers should note that the 5-year housing land supply position that is in effect at the point of decision-making should be used in their assessment. This position may change as and when the housing land supply improves.

It has been concluded since the last application on the site was submitted that the application site was previously a garden. On that basis the site conforms to the definition of

---

<sup>1</sup> Local Planning Authorities will fail the Housing Delivery Test and their policies will become out of date if: **From November 2018**, delivery was below 25% of housing required over previous three years; **From November 2019**, delivery was below 45% of housing required over the previous three years; **From November 2020 onwards**, delivery was below 75% of housing required over the previous three years. The Government publishes Housing Delivery Test results in November each year.

previously developed land as set out in the glossary of the NPPF as follows, as the site is not a garden within a built-up area:

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

Paragraph 117 of the NPPF comments that:

*117. Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land<sup>44</sup>.*

The use of previously developed land for development is therefore encouraged by the NPPF.

b. Site specific considerations

The previous application on this site (19/03480/OUT) was refused for 5 reasons, as set out above.

Reason for Refusal 1

The first reason for refusal related to the adverse impact of the development on material considerations which meant that the tilted balance brought about by the lack of a 5 Year Housing Land Supply came down in favour of refusal as the harm outweighed the advantages of additional residential development. The same 'tilted balance' has to be applied in respect of this application as the Council still cannot demonstrate an adequate supply of housing land in the Housing Market Area, as set out in detail above.

The issue relating to uncertainty of the impact on features of archaeological importance have been addressed in this re-submission and the Council's Archaeologist no longer objects to the development, subject to a condition.

The Council's Ecologist maintains a strong objection to the proposal for the following reasons:

*I have reviewed the details of the application including the Ecology Statement (1215 Heritage Homes Ltd, November 2019), hereafter referred to as 'the statement' submitted in support of the current application and offer the comments below. I have set out comments pertaining to the aforementioned statement in sequential order according to page number as the format of the statement is such that it does not allow for easy categorisation of the issues any other way.*

- *Critically the submitted Ecology Statement has not been produced by a suitably qualified and competent ecological consultant, but instead has been put together by the applicant and does not constitute a report that aligns with industry best practice. The statement misinterprets ecological matters and does not constitute a valid report to support the planning application.*
- *With respect of the tree felling that has already taken place at the application site, it is stated on page 2: 'We were however advised to mitigate any harm or damage to unforeseen wildlife by avoiding the use of heavy machinery and confirm we undertook the felling by hand at considerable additional cost and time during the out of nesting season.'*
- *The Council has been provided with information that suggests the felling was not undertaken by hand, contrary to the stipulation in the statement. The Council has also been provided with anecdotal evidence that felling was undertaken at least in part, during the bird nesting season again contrary to the above extract. Is the applicant able to provide any further information to demonstrate that the specified avoidance and mitigation measures were implemented?*
- *It is specified on page 3 of the statement: 'As set out there is no evidence that the existing trees were removed unlawfully. Nor is there any evidence that any protected ecology on site was harmed during the removal of those trees. No prosecution has been taken against the site owners and it would therefore be unreasonable and unlawful of the council to take any alternative viewpoint to the baseline of the site when assessing the biodiversity of the site.' This is not the case as regardless of the outcome of the DEFRA investigation regarding whether a felling licence was deemed to be required, this has no absolutely bearing on the Council's assessment of the application with respect of biodiversity. The lack of prosecution most certainly does not preclude the Council's obligation to assess the application with respect of ecology and it is not unlawful for the Council to consider the ecological baseline of the application site prior to or subsequent to the felling. Indeed it is incumbent upon LPAs to assess major applications of this nature and to ensure permission is granted where no net loss of biodiversity can be demonstrated, and in fact should only permit developments that can demonstrate a biodiversity net gain would be achieved in accordance with the NPPF 2019 and Wiltshire Council's own CP50 of the Wiltshire Core Strategy (Adopted January 2015). In addition, contrary to the stipulation in the above extract, the outcome of the DEFRA investigation and the fact that no prosecution was pursued does not provide evidence that no protected species were harmed and that there was no contravention of wildlife legislation. The need or otherwise for a felling licence and effects on biodiversity are two separate matters, and the lack of action by DEFRA does not mean there are no issues in respect of biodiversity.*

- *On page 4 of the statement it is specified: '1215 Heritage Homes has sought the advice from a number of independent Ecology specialists since 2015 to inform us of the current and potential ecology enhancement measures within the land. The reports assess the 'Land off Southampton Road' as well as the site next door 'land behind Wagtails' for which planning has been consented for 5 dwellings – 18 /10448/FUL.' The statement then goes on to list four previous sets of surveys and reports and refers to these as 'Previously commissioned site inspections and reports on the area dating back to 2015;'*

*Firstly, this application must be assessed on its own merit and must be informed by dedicated ecological survey and assessment specific to the application site, and as such ecology survey reports for planning applications adjacent or near to the application site cannot be relied upon to inform the determination of this application*

*Secondly, the first sentence of the extract doesn't make any sense and it is apparent throughout the statement that there is a lack of understanding with respect of what constitutes ecological mitigation, compensation and enhancement; these are different. The need for these matters to be wholly understood is imperative as is the involvement of a suitably qualified and competent ecological consultant I would suggest, as the site has already been completely cleared of trees and vegetation. Moreover, planning applications must demonstrate that appropriate and adequate ecological mitigation, compensation and enhancement measures will be implemented to ensure compliance with wildlife legislation, county and national planning policy. As specified above, major planning applications should only be permitted where the achievement of a net gain in biodiversity can be demonstrated, and certainly not where there will be a net loss in biodiversity.*

*Thirdly, if the applicant wishes to rely upon and refer to the findings of all the previous surveys and reports listed on page 4, it is necessary for all the associated reports to be included with the appendices of the statement, and at present the last survey report has been omitted. I would also highlight that ecological reporting must be up to date in order to be considered valid to support a planning application and most of the reports listed on page 4 are more than two years old. However, given that the application site has already been cleared the Council does wish to see previous ecology reports in order to provide some information about the ecological baseline of the application site prior to the site clearance as this would inform the determination of necessary compensation measures to offset the existing losses.*

- *Page 4 goes on to specify: 'The overall conclusion from all of the Ecology surveyors confirmed any proposed scheme will not adversely affect the local wildlife.'*  
*I would suggest the statement above is not an accurate representation of the conclusions from all of the previously commissioned ecology reports. For example, it is stated in the Ecological Appraisal produced by Malford Environmental Consulting and included in Appendix 2: 'Common garden birds could nest within trees and shrubs that are scheduled for removal as part of the proposed development. The development therefore has the potential to damage, destroy or disturb nesting birds if undertaken at the wrong time of year or without appropriate safeguards. If this were to happen this is a permanent, negative impact.'*

*Ecological reporting submitted to LPAs in support of planning applications should provide sound assessments rather than broad brush statements that have not been formed by a suitably qualified and competent ecological consultant.*

- *On page 5 of the statement it is stipulated: 'It is worth noting that planning has already been obtained on the adjoining site under the original planning reference 16/04775/FUL (superseded by 18/10448/FUL), where it was noted by Ecology Officer;' and then an email is included on page 5 which the applicant implies I wrote.*

*I must advise that I did not write the email included on page 5, nor have I been involved with any of the other applications referred to on page 5. The applicant has made a supposition that the email was written by myself and has cited my full name despite the fact that a surname is missing from the email. The email included on page 5 was in fact written by a colleague with the same forename.*

- *On page 8 of the statement under the heading Biodiversity Enhancements it is stated:*

*'To encourage birds and bats we shall be installing a bird box and or swift box on each dwelling as well as including a bat brick.*

*We have enlarged the front gardens and will be providing soft landscaping features. We will include the planting of pachysandra terminalis, cotoneaster microphyllus, helleborus orientals, Bergenia cordifolia, Alchemilla mollis and phormium tenax as well as feature planting of buxus sempervirens or similar along the pathways to each dwelling. All of this will act as major enhancements to the site and increase biodiversity encouraging numerous bugs and habitats for other animals.*

*Further details for the planting can be found on the landscape plan and Design & Access Statement submitted alongside the main application.*

*We have positioned the car parking to side of dwellings and have provided garages to a number of the properties. We propose the use of sympathetic lighting within the development to minimize light spillage into the gardens and trees.*

*We confirm all plants and trees - including the existing trees shown in the tree surveys supplied with this application will be kept in situ.*

*We have increased the size of the play and grass areas introducing a number of landscaped features within the development and have positioned an area at the north side of the development adjoining the public footpath to include a seating area so the community can enjoy the natural environment and learn more about the ecology that surrounds them.'*

*There are a number of issues I must raise with respect of the measures set out in the above extract. Firstly, contrary to the heading on page 8, not all the measures outlined comprise ecological enhancements and again this highlights the need for involvement of a suitably qualified and competent ecological consultant. The provision of bird boxes on houses is not a like-for-like substitute for the nesting opportunities already lost on account of the significant*

*number of trees already felled, and tree and hedgerow planting would be more suitable; although the provision of swift bricks within the built design is welcomed.*

*The species proposed for planting are primarily non-native ornamental species and not considered to be appropriate. Instead species of local provenance with a value to wildlife would be required. Moreover, the planting proposals will not comprise suitable compensation to offset the loss of a large number of native tree.*

*The positioning of car parking relative to the affiliated dwellings and the provision of garages is irrelevant in terms of ecological enhancements so it is unclear why this is detailed under the heading of Biodiversity Enhancements. The extract then goes on to specify that sympathetic lighting will be used, however, this is lacking in necessary design detail.*

*It is specified in the extract that all plants and trees shown on the tree survey will be kept in situ but this fails to acknowledge that the vast majority of trees that were on site have not been retained in situ and were already felled before the application was submitted to the Council. Additionally, many of the trees that remain and are shown on the tree survey plan are situated along the boundaries of the application site and as such also lie on the boundary of neighbouring properties and presumably these trees would need to be retained in any case. Other trees shown on the tree survey plan are actually beyond the application site boundary, and therefore cannot be subject to works in any case as they are outside the landowners control. Therefore, not only does this measure not comprise an ecological enhancement measure as it will not serve to provide any additional ecological benefit above the existing baseline, but the retention of trees on land outside the ownership boundary of the application site should not be put forward as a biodiversity measure in support of the planning application.*

*Lastly, the provision of a play area and a seating area does not in itself constitute biodiversity enhancement measures and so again it is not apparent why these proposals are outlined under the respective heading. Moreover, the extract goes on to state that the community can learn about the ecology that surrounds them, however it is argued throughout the statement that there is limited ecology at the application site. Is this therefore referring to the ecology which the applicant anticipates will return to the site post development? I would suggest that the current proposals would not sufficiently offset the loss of ecological resources that have already occurred to any extent whereby the community would enjoy ecology at the application site once houses have been built on the site. This is because very little is proposed in the way of meaningful compensatory planting and enhancement that could lead to an increase in ecology post construction completion. The proposed site layout does not include any areas set aside for planting and ecology, and there are no buffers/set-backs from boundary trees and vegetation shown on the plans to ensure the retention and protection of corridors for wildlife. Instead the curtilage of residential gardens is shown to extend right up to the boundaries of the application site and so the longevity of the boundary trees cannot be assured and there will be nothing to prevent residents from cutting the trees back and potentially compromising their structural integrity in the long term. Furthermore, it will not be possible to ensure that the boundaries of the application site remain dark for wildlife such*

*as commuting and foraging bats, because the gardens will extend to the site boundaries and as such the installation of artificial external lighting within the residential gardens may result in light spill on to the retained trees and boundary vegetation. This is also despite the earlier scant reference to the use of sympathetic lighting.*

- *Under the heading of Mitigation & Enhancements on page 9 it is stated: 'As the specialists have confirmed no roosting bats are in the area, however have confirmed there is a possibility of foraging bats.'*  
*Firstly it must be highlighted that this is the second section of the statement titled Enhancements, and measures are outlined in this section of the statement that do not constitute mitigation.*

*Secondly, it is unclear whether the above extract is referring to there being no roosting bats within the boundary of the application site or the wider area; in fact there are records of established bat roosts within the area and so the statement in the extract is not accurate.*

*Contrary to the stipulation in the extract above that specialists have confirmed no roosting bats, it is specified in Section 3.3.1 of the most recent ecology report produced by an ecological consultant that has been provided to the Council by means of inclusion at Appendix 1 (the Daniel Ahern report from 2016): 'Trees and gardens adjacent to the site may have potential for bats to forage and roost.'* Even this is insufficient in detail and lacked the results of a ground level tree assessment which should have been undertaken and the results of which provided to the Council to augment the ecological baseline information provided to the Council and needed to inform the planning decision. Furthermore, the indication by ecological consultants that there is potential for bat foraging activity also serves to augment my earlier point regarding the need to retain dark corridors along the boundaries of the site and to ensure that trees and vegetation along the boundaries are retained and protected in the long term and will not be compromised by residents of the proposed properties.

- *It is also stated under the sub heading of Gardens on page 9 that: 'We will also be providing each dwelling with its own wildlife camera, bird, bat and hedgehog box as well as an insect hotel /log pile...'*

*I must highlight that the provision of a wildlife camera is irrelevant to our consideration of the planning application and does not constitute enhancement. Furthermore, the longevity of features such as a hedgehog box and insect hotel/log pile where these are proposed to be sited within residential gardens cannot be assured as it is not possible to enforce their protection or to ensure they are retained once the properties are occupied. Therefore, such features cannot be relied upon as appropriate enhancement for a major residential development.*

- *Under the sub heading of Gardens/Planting on page 9 it is specified: 'We are going to plant 1 meter boarder to the rear of each garden of mixed bare root plants to encourage and enhance the existing biodiversity of the site along with a further half meter of wild flower seeds to further encourage birds, bees and insects.'*



*Again this cannot be relied upon as suitable or adequate compensation for the loss of ecological resource that has already occurred, and as the proposed areas of planting will be within the curtilage of residential gardens, such measures cannot be relied upon to support the planning application as the Council has no assurance of the long term retention and management of such areas of planting as these areas will be within the control of residents once the properties are occupied and no enforceable planning conditions could be applied.*

- *On page 10 it stated: 'Rather than force homeowners to protect wildlife and biodiversity we propose to educate them by way of encouragement we will be giving every household a free membership to the Wildlife Trust and installing a Wildlife camera enabling the household / family to observe the wildlife activity through movement sensors which will encourage all residents to continue and further enhance the biodiversity on the site for many years to come.'*

*Giving householders a membership to the Wildlife Trust and a wildlife camera is of no relevance to the determination of the planning application and does not serve to positively support the planning application. The Council is concerned with ensuring the application would incorporate suitable and sufficient ecological compensation and enhancement within the scheme layout to offset the pre-existing losses and to ensure a biodiversity net gain in accordance with the NPPF and CP50. It also needs the implementation and management of such measures in the long term to be an enforceable part of any planning permission granted, and as such small scale planting within residential gardens and minimal measures such as insect hotels cannot be relied upon.*

- *Also on page 10 it is stipulated under the heading Net biodiversity gains: 'We believe that all the enhancements mentioned above will dramatically increase the net biodiversity gains to what is currently on site. We confirm we have read all of the reports mentioned within this statement and will adhere to any of the mitigations and enhancement measures within the reports with specific detail being taken from Malford Environmental Consulting and Ecology Solutions as we agree with their points and want to create a re-invigorated diverse animal friendly habitat within the development and encourage the new home owners to continue this exploration.'*
- *The first sentence in the above extract does not wholly make sense and again this highlights that a suitably qualified and competent ecological consultant should have been commissioned. Furthermore, it is will not be possible to adhere to all the mitigation measures proposed within the ecology reports included within the Appendices to the statement as the site has already been cleared. As aforementioned, it is specified in the Ecological Appraisal by Malford Environmental Consulting included in Appendix 2: 'The development therefore has the potential to damage, destroy or disturb nesting birds if undertaken at the wrong time of year or without appropriate safeguards. If this were to happen this is a permanent, negative impact.' As it stands, the Council has no assurance that suitable avoidance and mitigation measures were adopted to ensure nesting birds were protected.*

Conclusion in Summary

*It is deemed that the proposed enhancement measures will not, contrary to the conclusion put forward in the Ecology Statement (see last extract), suitably compensate for the loss of ecological resource which has already taken place at the application site and will not achieve a net gain in biodiversity. Whilst the inclusion of bat and bird boxes within the built design is welcomed, the proposed compensation in terms of proposed planting is inadequate and it is considered will not suitably offset the existing losses. Furthermore, the scheme layout has no buffer zones along site boundaries and instead proposes that all residential gardens extend right up to the site boundaries thereby providing no assurance that the boundary vegetative features will be protected and retained long term or kept as dark corridors for bats. Most of the species being proposed for planting are non-native and ornamental rather than being of local provenance and selected for their value to wildlife. The provision of a 1m border within residential gardens is inadequate as compensation for the pre-existing ecological losses, and the retention and management of these areas cannot be enforced once properties are occupied. In addition, most of the trees shown on the Site Layout drawing (Drawing Number 1215\_01, Revision 01, 21.11.2019) are existing boundary trees or trees on adjacent land; there is very little proposed in terms of new tree planting according to the submitted plan and certainly insufficient to compensate for the losses.*

***Given the conclusion put forward by the applicant that the development will achieve a biodiversity net gain, it is requested that this is quantitatively demonstrated by means of completion of the Biodiversity Metric 2.0. The results should be issued to the Council for review.***

*Furthermore, it should be noted, as was identified in relation to the previous planning application, that the application site is located within the New Forest 8km buffer which triggers the requirement for HRA to be undertaken by the competent authority i.e. Wiltshire Council. This will be undertaken once resolutions to the issues set out in this email have been progressed.*

*Until the matters set out within this response have been suitably addressed I cannot withdraw my objection.*

The Council's Ecologist has updated the position with regards to the impacts on the New Forest since compiling the initial response, which is as follows:

*As stipulated in the response dated 15<sup>th</sup> April 2020, the application site also lies within 8km of the New Forest SPA. Applications for new residential development and visitor accommodation within this parameter have potential to lead to a significant adverse effect on the SPA on account of additional recreational/visitor pressure upon the SPA which is likely to detrimentally impact qualifying features of the SPA, namely ground nesting birds. It can be expected that even a single unit could give rise to impacts in combination with other plans and developments. Applications within 8km are therefore screened into an appropriate assessment and adequate mitigation will be required before the assessment can be concluded favourably - this being a necessary pre-requisite for a lawful approval.*

*The Council doesn't yet have a generic/strategic mitigation strategy in place for this SPA. Recently the New Forest National Park Authority (NFNPA) updated its own mitigation strategy and this provides a framework for considering the scale of contributions due from development within the*

*national park boundary. At the EiP for the Wiltshire Housing Site Allocations Plan, there was an interim agreement made between Wiltshire Council and the NFNPA that development permitted in the 8km buffer in Wiltshire could contribute to the New Forest NPA's mitigation scheme.*

*The Council has now started to review its own approach to the New Forest SPA. The HRA for the core strategy identified that the quantum of development in the period 2015-2026 (i.e. year of CS adoption to end of CS period) could, in principle, be offset through a Recreation Mitigation Strategy. This now needs to be examined through appropriate assessment to determine what a proportionate contribution would be towards the NFNPA strategy. Until the generic/strategic appropriate assessment has been completed and Natural England has been consulted, I recommend that applications are delayed or refused.*

Since the above consultation response was received, there has been a further material change in circumstance that needs to be addressed as part of the determination of this application.

The application site lies within the catchment of the River Test, which flows into the Solent Special Area of Conservation (SAC).

WCS policy CP50 (Biodiversity and Geodiversity) and the NPPF requires the Local Planning Authority to ensure protection of important habitats and species in relation to development and seeks enhancement for the benefit of biodiversity through the planning system. Whilst the application site is not adjacent to any rivers or in any respective flood zones, it is situated within the River Test catchment which drains into the Solent. This region is protected by a number of international designations including the Solent Maritime Special Area of Conservation (SAC), Chichester and Langstone Harbours Special Protection Area (SPA), Portsmouth Harbour SPA, Solent and Southampton Water SPA; as well as the nationally designated Sites of Special Scientific Interest (SSSIs) that underpin these international designations.

The Solent water environment is one of the most important for wildlife in the United Kingdom. It is protected under the Water Environment Regulations and the Habitats Regulations 2017 as well as through national legislation for many parts of the coastline and adjacent maritime areas. Natural England has confirmed high levels of nitrogen and phosphorus are entering this water environment and that there is sound evidence that this eutrophication is causing excessive growth of plants and algae which reduces oxygen and light levels and is leading to negative effects on the special features for which the European sites are designated. These nutrient inputs mostly come either from agricultural sources or from waste water from existing housing and other development.

Under the Habitats Regulations, where a land use authorisation, has the potential to adversely affect a European site, it is necessary for the "competent authority" to consider whether the activity being authorised would impact on any of the designated features and if so to undertake an appropriate assessment to determine whether there is a risk it could lead to a loss of the integrity of the site either alone or in combination with other plans and

projects. The 'competent authority', for planning applications is 'the Local Planning Authority'.

Regulation 63 of the Habitats Regulations 2017 states the responsibilities for competent authorities thus:

- (1) *A competent authority, before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which—*
  - (a) *is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and*
  - (b) *is not directly connected with or necessary to the management of that site, must make an appropriate assessment of the implications of the plan or project for that site in view of that site's conservation objectives.*
- (2) *A person applying for any such consent, permission or other authorisation must provide such information as the competent authority may reasonably require for the purposes of the assessment or to enable them to determine whether an appropriate assessment is required.*

The Local Planning Authority must therefore give greater scrutiny to the effects of development on such sites.

Natural England currently advises that every permission for new dwellings in the River Test Catchment Area could result in increased nutrients entering the Solent area ([Guidance dated June 2020](#)). Whilst this application site is some distance from the European Sites, Natural England's advice applies to all new planning permissions for new residential development within the catchment, no matter how small. Accordingly, the Local Planning Authority considers this proposal is likely to lead to significant effects on the European Sites and an Appropriate Assessment (AA) is required under the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations).

Natural England has advised that the principal nutrient that drives excessive enrichment in the marine environment is nitrogen. In order to avoid impacts on the European sites, it advises that all development with the potential to give rise to additional nitrogen should achieve nitrogen neutrality before the development is occupied. The above explains how to prepare nutrient budgets before and after a new development is occupied.

A scheme for nitrogen neutrality has not been submitted with this application and until strategic solutions are developed, to which individual proposals such as this one could contribute, it may in any case be difficult for smaller developments to demonstrate nutrient neutrality. It is therefore unlikely that an AA for this development could conclude with sufficient certainty that there will be no adverse effects on the Solent SACs and SPAs, alone and in-combination with other plans and projects.

In summary, this application involves the provision of 32 additional dwellings within the River Test catchment. As it has potential to increase nitrogen loading into the River Test, and thus

the Solent SACs and SPAs, the development must be appraised in line with the Habitat Regulations 2017 through an appropriate assessment (AA). In view of the uncertainty regarding the development's ability to achieve nitrogen neutrality, the Council's Ecologist has confirmed that an AA could not be concluded favourably at this time and thus the proposal fails to meet the requirements of the Habitat Regulations. A further reason for refusal is therefore added to this decision on this basis.

The applicant has suggested that this reason for refusal could be overcome by the use of a Grampian style condition which would have the effect of preventing the development of the site until suitable mitigation measures had been agreed by the LPA and Natural England, and that therefore the application should not be refused consent on this ground.

However, in a recent appeal decision for a proposal in Winterslow where a similar condition was proposed, the Inspector, in dismissing the appeal, commented that:-

*... However, the appellant is suggesting the use of a 'Grampian' condition requiring a mitigation package addressing the additional nutrient input arising from the development. However, there is no certainty at this stage over the course of mitigation that would be taken.*

*27. Without detail of the mitigation package at this stage, there is a considerable amount of uncertainty as to the potential effectiveness of the mitigation available for this proposed development. There is no clear mitigation that is being proposed at this time by the appellant, though it is accepted that mitigation is required. Furthermore, whilst a Grampian condition could potentially prevent development occurring until suitable mitigation was confirmed, an appropriate assessment must consider detailed mitigation proposals at the decision stage. (appeal ref APP/Y3940/W/19/3242715, LPA ref 19/03930/OUT)*

In light of the above comment, which supports a similar stance taken by other Inspectors when dealing with schemes affected by the Nitrates embargo, it is recommended that the reason for refusal relating to the impact of nitrates from the development on the River Test stands.

### Reason for Refusal 2

The second reason for refusal related to the form of the development and argued that it was out of character with the surrounding area by reason of the mass and overall concentration of the indicative layout, and was therefore contrary to Policy CP 57 of the Core Strategy.

The current application has reduced the number of proposed dwellings from up to 36 to up to 32, and has improved the amount of proposed landscaping around the site.

This site would not be readily visible from the public domain as it is effectively to the rear of properties in Southampton Road, Junction Road, Woodlea Grange and Firs Road. It would be visible from the footpath along its northern boundary, however this view is partly obscured by existing and proposed vegetation, and runs along the southern boundary of the extant consent for up to 50 dwellings on land to the north.

The character of the dwellings to the south and west of the site are characterised by large detached properties set in spacious grounds, although the dwellings in Woodlea Grange are generally smaller and with less generous gardens. The approved development to the north

indicates a development at a higher density than is proposed in the scheme, the subject of this application. Alderbury has a wide range of housing developments, with different densities and styles and the application site is not within a Conservation Area or any other area of specific townscape designation. It is not felt that the previous reason for refusal would be sustainable at appeal, indeed the Inspector who determined the appeal on land to the north of the current application site commented that:-

*I consider that the proposed development broadly accords with the provisions of CS policies 1 and 23. However, even if I am wrong on this matter there is nothing of substance to demonstrate that the proposal would undermine the aims of the spatial strategy or amount to unsustainable development. This site, which is located towards the centre of the village and where there is no cogent evidence of any harmful impact, is suitable for the proposed development. (para 47 of the decision notice)*

### Reason for Refusal 3

The third reason for refusal stated that the application failed to demonstrate that the proposed development could be suitably and effectively drained in respect of foul and surface water.

The current application has been accompanied by revised drainage proposals and after significant further discussion and the submission of further information the Council's Drainage team and Wessex Water have confirmed that the site can be adequately drained and that no objection is raised, subject to suitable conditions.

Therefore the third reason for refusal of the earlier application cannot be sustained.

### Reason for Refusal 4

The fourth reason related to the impact of the clear felling of the trees on the site on the ecology and biodiversity of the area and the fact that the proposal could not demonstrate an enhancement of the biodiversity of the site, and that the lack of compensatory measures would do little to mitigate the impact of the ecological damage caused by the clear felling of the trees prior to the submission of the application.

As has been set out above in some detail, in respect of Reason for Refusal 1, the Council's Ecologist still maintains an objection to the proposal on similar grounds.

The current application contained information to demonstrate that the applicants/landowners has not committed an offence by clear felling all the trees from this 3 acre site prior to the submission of the application in terms of the Forestry Act which deals with such matters. Apparently the applicant demonstrated that the site was previously a garden and under the terms of the Act, a Felling Licence is not required to fell trees that are not the subject of a Tree Preservation Order within a garden. However that fact that the felling of the trees was permitted under one piece of legislation does not mean that the destruction of the biodiversity of the area was also sanctioned. The clear felling of the site means that it is considered that there has been a total net loss of biodiversity and that due to the nature of the development proposed there is no opportunity to enhance the biodiversity of the area to either compensate for this loss or to augment what little remains. Policy CP50 of the Core Strategy, the NPPF and Section 40 of the NERC Act 2006 places a duty on LPAs to only permit developments that will result in a net biodiversity gain and this cannot be achieved on this site. The application is therefore recommended for refusal on the grounds of its adverse impact on the biodiversity of the area.

## Reason for Refusal 5

The final reason for refusal related to the fact that the application did not secure sufficient provision for the delivery of the required affordable housing, public open space and waste and re-cycling generated by the development. It was stated that this reason for refusal could be overcome if the applicants were to enter into a suitable Section 106 agreement to secure the necessary financial contributions towards the provision of these facilities.

The current application proposes a policy compliant offering of up to 13 affordable housing units of a type and tenure which meet the requirements of the Council's Housing department, and Policy CP45 of the Core Strategy. The applicants have offered to enter into a S106 agreement to provide 2 x one-bedroom units, 6 x two-bedroom dwellings and 5 x three-bedroomed dwellings. These dwellings will be provided as a mix of shared equity and affordable rented properties.

The Council's Open Space team have confirmed that the area of play space within the application site is now of a sufficient size and in a suitable location to be policy compliant. They also seek a financial contribution towards the provision of casual public open space and youth and adult leisure space within the village totalling £43,230.70 to be secured via a S106 agreement.

The Council's Waste Management team recommend that the applicants agree to contribute £2,912 towards the provision of waste and recycling containers necessary to serve the development, and that this sum is secured via a S106 agreement.

The Council's Education department have assessed that the development needs to make the following contribution towards an educational provision. An Early Years provision of £52,366, and £137,640 towards the provision of Secondary School provision. There is no requirement for a contribution towards Primary school provision as the local school currently has space for additional pupils.

There may also be the need to contribute towards the mitigation of development on the New Forest Special Area of Protection as the site lies within the 8km buffer zone which triggers the need for a Habitats Regulations Assessment to consider the impact of development on this European protected site. However, applications for new residential development within this parameter are currently being refused or are 'on hold' in lieu of adoption of a strategic mitigation strategy on account of the potential for a significant adverse effect on the SPA due to the additional recreational/visitor pressure that new housing could cause.

However the application has not been accompanied by a Draft Heads of Terms to secure the necessary contributions, and on that basis the previous reason for refusal still stands, with the Informative Note that these matters can be addressed if the applicants were to enter into a suitable Section 106 agreement with the Council.

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

This application is an attempt by the applicants to overcome the previous reasons for refusal on this site on the edge of the village of Alderbury, which lies outside of the settlement boundary, but which is surrounded on three sides by existing development and is boarded to the north by an extant consent for 50 dwellings granted at appeal. It is technically previously

developed land under the definition in the NPPF, where development is preferred to green field sites.

The Council cannot demonstrate a 5 Year Housing Land Supply and therefore, under the current terms of the NPPF, the Council has to carefully assess whether there are factors that will weigh against the grant of planning permission in this location, applying the 'tilted balance'.

It is acknowledged that the site lies immediately adjacent to the village boundary, and is sited close to local amenities such as the school, shop, playing fields, and that there is a bus stop very close to the site entrance. It is therefore suggested that it is in a sustainable location. It will also provide affordable housing to the village.

However there remain strong material considerations in respect of the adverse impact on the European protected sites of the River Test and The Solent, and the New Forest, and the biodiversity of the area, that weigh against the development.

Consequently it is considered in this case that the effect of the tilted balance in respect of the interpretation of settlement boundaries, together with the benefits provided by the affordable housing are clearly and significantly outweighed by the adverse impacts on the biodiversity of the area and that the development should be refused. The fact that the site would adversely impact on Habitats sites also means that the presumption in favour of sustainable development set out in paragraph 11 of the NPPF does not apply (see footnote 6 to this paragraph) in this case.

## **RECOMMENDATION**

**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 out weighed 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.

#### 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.



This page is intentionally left blank

## REPORT OUTLINE FOR AREA PLANNING COMMITTEES

<b>Date of Meeting</b>	29 <sup>th</sup> September 2020
<b>Application Number</b>	20/02624/FUL
<b>Site Address</b>	The Old Dairy, Church Road, Milston, SP4 8HT
<b>Proposal</b>	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.
<b>Applicant</b>	Mr & Mrs P Kennedy
<b>Town/Parish Council</b>	MILSTON
<b>Electoral Division</b>	Bulford, Allington & Figcheldean – Cllr Smale
<b>Grid Ref</b>	416433 145198
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Georgina Wright

### Reason for the Application being Considered by Committee

This application is brought to committee at the request of Councillor Smale, for the following reasons:

- Concentrates on possible Flooding yet the ground is 2m above the norm

#### 1. Purpose of Report

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

#### 2. Report Summary

The main issues which are considered to be material in the determination of this application are listed below:

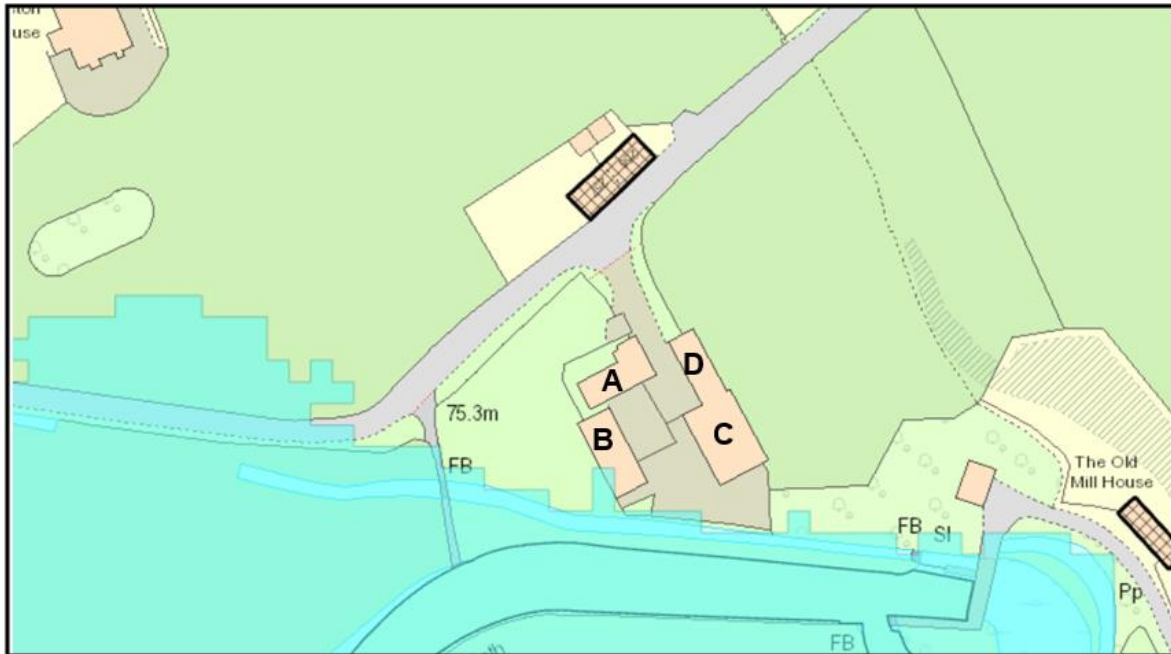
- Principle
- Heritage, Character & Design
- Neighbouring Amenities
- Highway Safety
- Flooding
- Ecology

The application has generated no comments from Milston Parish Council; and 20 letters of support from third parties.

#### 3. Site Description

The site is situated on the edge of the small hamlet of Milston. Milston is not defined as any kind of settlement in planning terms by Wiltshire Core Strategy (WCS) policies CP1 (Settlement Strategy) CP2 (Delivery Strategy) or CP4 (Amesbury Community Area), and therefore the hamlet and this site, are both situated in unsustainable, designated countryside.

The site is surrounded to the east, south and west by fields/open countryside. To the north, Church Road separates the site from a pair of semi-detached cottages, both of which are Grade II Listed Buildings. The River Avon and its associated flood zones define the southern boundary of the site. Flood Zone 2 partially extends into the site on the western and southern boundaries; whilst Flood Zone 3 also partially extends into the site on the southern boundary. The River is also designated as a Special Area of Conservation (SAC); a Site of Special Scientific Interest (SSSI); and an Area of High Ecological Value. The site is situated within the River Avon Catchment and within a Special Landscape Area as defined by Saved Salisbury District Local Plan (SDLP) policy C6. The site is also within 6.4 kilometres of the Salisbury Plan Special Protection Area (SPA).



**PLAN A – Site Plan**

The site is subject to a level change with the land falling away as it extends from Church Lane (to the north), towards the river (to the south). It is accessed directly off Church Lane to the north. A public footpath (MILS3) exists approximately 45 metres away from the site to the east. A further public footpath (MILS17) runs parallel to and approximately 35 metres away from the western boundary of the site; and public footpath (MILS18) runs along the southern edge of the river that exists along the southern boundary of the site.

The site currently consists of a farmyard of buildings framing a central courtyard. As per PLAN A above and for the purposes of this report, Building A is situated along the northern boundary of the courtyard. This building is a modern agricultural building that is steel framed and clad with corrugated steel/rendered masonry on all elevations. It received consent for its conversion into a dwelling (under ref: 17/01873/PNCOU).

Building B extends along the western boundary. This building is also a modern agricultural building with a steel frame and a mix of corrugated steel and masonry cladding. It is open sided onto the courtyard with a roller door filling one quarter of this elevation. Consent has previously been refused (and dismissed at appeal under ref: 17/11183/PNCOU) for this building to be converted into a dwelling as it was found that it is not of a standard that is capable of conversion without significant rebuild/new build.





**PHOTOGRAPH 1 – Building A**



**PHOTOGRAPH 2 – Building B**

Building C is also a modern agricultural building that is steel framed and clad in metal. It is predominantly open sided on its southern elevation. It is situated in the south eastern corner of the plot. All previous permissions on the site have required this building to be demolished.



**PHOTOGRAPH 3 – Building C**

Building D is of traditional construction with brick and flint walls and an asbestos roof. This building is situated in the north eastern corner of the site and also received consent for its conversion into a dwelling (under ref: 17/01873/PNCOU).



**PHOTOGRAPH 4 – Building D**



The whole site is accessed from the north via a small access track. A further little brick building exists along this track immediately behind building A. A concrete apron/farm yard is situated centrally. A blockwork wall defines the southern and western boundaries of the site. Whilst permissions have historically been granted for 2 of the 4 main farm buildings to be converted into 2 dwellings, the permissions were never implemented and have since expired (on 13<sup>th</sup> April 2020). The buildings are therefore still in agricultural use in planning terms.

#### 4. Planning History

16/05547/FUL	Demolition of 1 agricultural building; conversion of 4 retained agricultural buildings to residential use, including 1 building as garage, plus extension of 1 building with erection of associated cart shed; provision of parking and turning space, private amenity space and landscaping	Withdrawn
--------------	--	-----------

This application was heading for refusal because the site is situated outside of any defined village; is in an unsustainable location; there was doubt as to whether the buildings were capable of conversion; alterations/extensions were proposed which were deemed to be beyond those that were reasonably necessary; and no alternative reuses of the buildings had been considered or discounted. The proposals were therefore considered to be contrary to the provisions of WCS policy CP48 (Supporting Rural Life). The applicant withdrew the application before it could be determined.

16/09911/PNCOU	Prior notification under Class Q for change of use of agricultural buildings to form three dwellings.	Withdrawn
----------------	---	-----------

This application concerned buildings A, B and D and was also heading for refusal because there was doubt as to whether the buildings were capable of conversion; more structural information was required as to whether the buildings were capable of supporting the proposed alterations including new floors and finishes; and the conversions were considered to exceed the 450 square metre allowance so did not benefit from this type of permitted development right. The proposals were not therefore considered to comply with the provisions of Class Q of the Town & Country Planning (General Permitted Development)(England) Order 2015 (GDPO) and were withdrawn before the decision could be issued.

17/01873/PNCOU	Prior notification under class Q for change of use of agricultural buildings to two single dwellinghouses (Use class C3) and associated building operations.	Prior Approval Not Required – 13.04.2017
----------------	--	--

This application involved buildings A and D and after the submission of structural surveys, it was considered that these two buildings were capable of conversion and the proposals satisfied all of the criteria of Class Q to enable them to be converted into residential uses. A condition was imposed as part of this decision requiring buildings B and C to be demolished prior to occupation of either buildings A or D for residential purposes. This permission however expired on 13<sup>th</sup> April 2020.

17/11183/PNCOU	Notification for prior approval under Class Q for a proposed change of use of agricultural building to single dwellinghouse and associated operational development	Refuse – 04.01.2018. Appeal Dismissed – 10.09.2018
----------------	--	---

This application involved building B and requested its conversion into a single dwelling under the Class Q process of the GDPO. It was refused and dismissed at appeal for the following reason:

1. *The identified building is not considered to be capable of conversion without significant building operation works being undertaken that go beyond what would be reasonably necessary to make the existing building function as a dwelling. It is not therefore considered that the proposals satisfy criterion (i) of Class Q1 of Part 3 of Schedule 2 of the Town & Country Planning (General Permitted Development) (England) Order 2015; nor the guidance set out in the National Planning Policy Guidance, and the works therefore do not constitute permitted development. Planning permission would therefore be required for the proposed works.*

## 5. The Proposals

This is a full application which now proposes to convert buildings A and B into a single, large 4 bedroom property. The bedroom accommodation is to be provided in building A, whilst the associated living accommodation is to be provided in building B. The two buildings are to be linked by a small, single storey, glazed addition in the south western corner of building A to enable the two buildings to function as a single dwelling. Building A is to have two partial mezzanine floors installed at either end of the building to create a galleried landing and study. Building B is also to have a mezzanine installed over the northern quarter of the building to create a galleried landing/sitting area. A canter levered, glazed balcony is proposed on the southern elevation of building B which is to be served from the proposed, ground floor living room. As part of the works, both buildings are to be clad in insulated metal cladding panels. The roof of both buildings is also to be replaced with insulated metal roof panels. New openings are proposed on all elevations of the 2 buildings, sometimes utilising existing openings. Roof lights are proposed on both buildings and the open side of Building B is to be infilled with glazing on its southern 3 quarters and steel on its northern quarter.

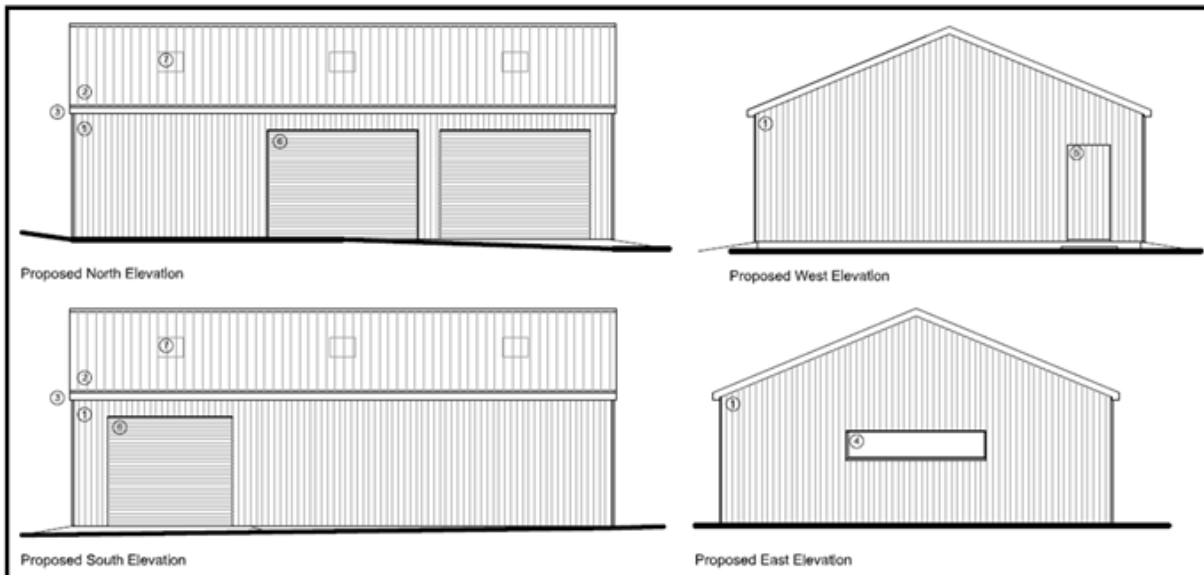


**PLAN B – Proposed Elevations of Buildings A & B**



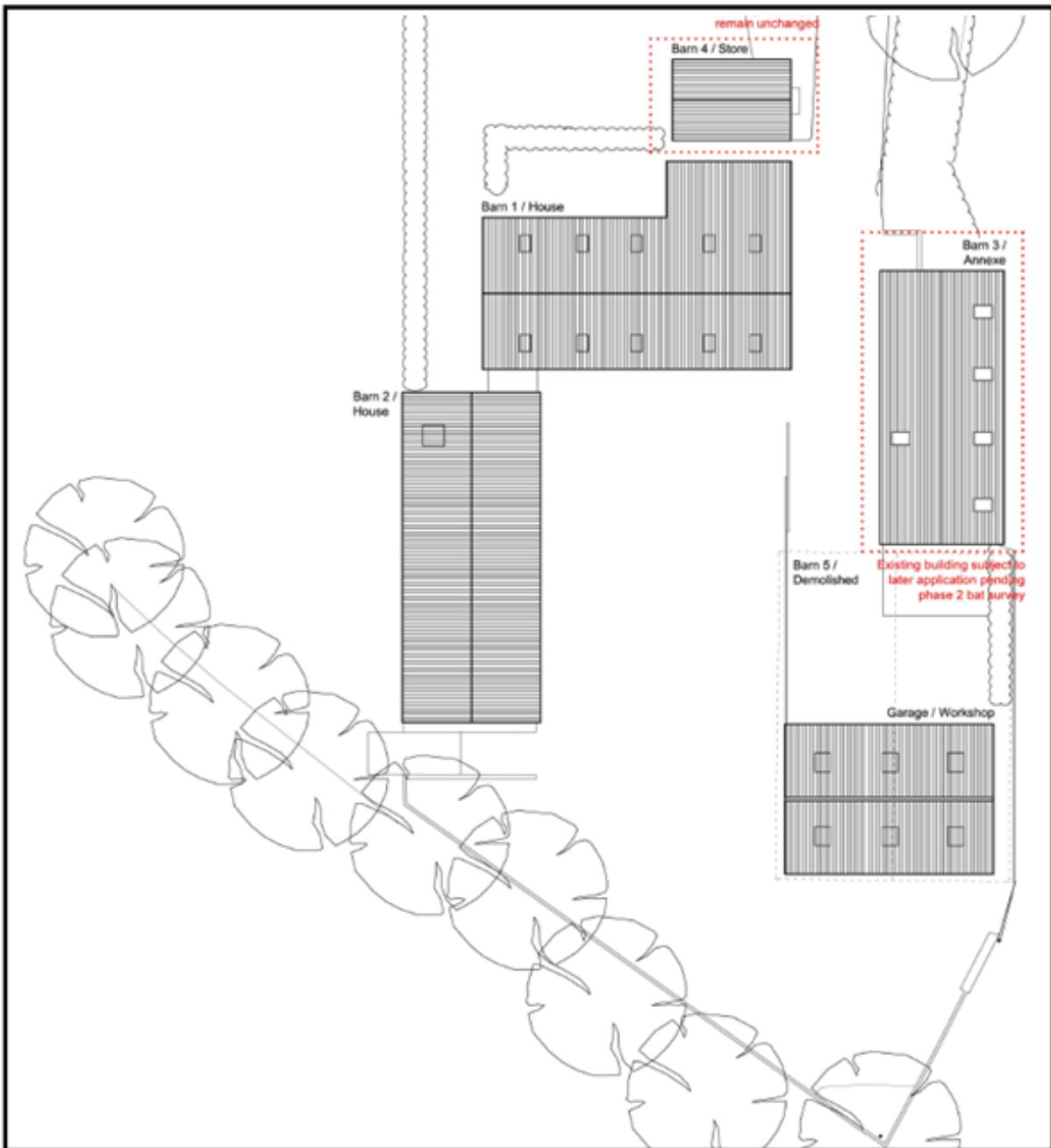
**PLAN C – Proposed Ground & First Floorplans of Buildings A & B**

As part of the proposals, building C is to be demolished and in its place a double garage with workshop is proposed. This building is to be situated along the southern boundary of the site and is to consist of a single storey, pitched roof building that is to be clad in the same metal sheeting as the rest as the development. It is to have a footprint of approximately 11.75 x 7.75 metres and is to extend to a height of approximately 5.25 metres.



**PLAN D – Proposed Garage Elevations**

The plans show that building D is to be converted into a home office, one bedroom annex and games room. It is however confirmed that this will be subject to a separate application and is not included in this proposal. Likewise no works are proposed to the small brick building that exists behind building A



**PLAN E – Proposed Site Plan**

The application was accompanied by a Planning Statement; Flood Risk Assessment; a Bat Report; and a Structural Report. During the course of the application additional drainage and ecological information was submitted.

## 6. Local Planning Policy

*National Planning Policy Framework (NPPF)*  
*National Planning Practice Guidance (NPPG)*

*Salisbury District Local Plan policies (Saved by Wiltshire Core Strategy):*

C6 – Special Landscape Area

R2 – Public Open Space Provision

H31 – Extensions to dwellings in the Countryside

*Wiltshire Core Strategy:*

CP1 (Settlement Strategy)

CP2 (Delivery Strategy)

CP3 (Infrastructure Requirements)

CP4 (Amesbury Community Area)

CP43 (Providing Affordable Housing)

CP45 (Meeting Wiltshire's Housing Needs)

CP48 (Supporting Rural Life)

CP50 (Biodiversity and Geodiversity)

CP51 (Landscape)

CP57 (Ensuring High Quality Design & Space Shaping)

CP58 (Ensuring the Conservation of the Historic Environment)

CP60 (Sustainable Transport)

CP61 (Transport & Development)

CP62 (Development Impacts on the Transport Network)

CP64 (Demand Management)

CP67 (Flood Risk)

CP68 (Water Resources)

CP69 (Protection of the River Avon SAC)

*Supplementary Planning Documents:*

Creating Places Design Guide SPG (April 2006)

Achieving Sustainable Development SPG (April 2005)

Durrington & Larkhill Village Design Statement (VDS)

Wiltshire Local Transport Plan – Car Parking Strategy

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

**Milston Parish Council** – No comments received

**Highways** – No Objection

- Whilst I note that this site lies outside any settlement framework, on the basis that the development proposed can be justified on planning policy grounds, I would not wish to raise a highway objection to it.
- It is considered that the proposal will not have any significant impact on highway safety.

**Conservation** – Objection

- As you know we've previously dealt with a number of applications on this site.
- I cannot convince myself to believe that retention of these unattractive modern sheds in a converted form offers an enhancement to the setting of anything.
- Neither of the buildings in this application is worthy of retention, and one might very reasonably argue that they are not capable of the proposed use without complete recladding etc.
- Neither building, nor that proposed for demolition, has any heritage interest.

**Archaeology** – No Objection

- The site has been heavily impacted by modern development and the proposed groundworks are limited in scale.

## **Ecology – Objection**

### *General:*

- The submitted details have been reviewed and include an initial ecology survey report;
- 'Phase 1 Bat Report' Lyndsey Carrington Ecological Services, February 2020.
- This identified potential for bats to use adjacent buildings to those affected by the current application and a subsequent ecology survey report has been provided; 'Phase 1 and 2 Bat Report' Lyndsey Carrington Ecological Services, Updated June 2020.
- This has found no bat roost use the site including adjacent buildings, recommendations are made for biodiversity enhancement measures and for lighting restrictions to protect wildlife. The enhancement details are generally suitable and should be shown on a plan.
- We also note that the site is adjacent to a mill race and within close proximity to the River Avon, there are numerous records of water vole within the area, Construction Environmental Management Plan (CEMP) should therefore be provided to protect these features.
- These details of these measures may be provided as conditions or in advance of a decision on the application.

### *Salisbury Plain SPA:*

- This application lies within the 6.4km buffer zone of the Salisbury Plain SPA and in light of the HRA for the Wiltshire Core Strategy and the HRA for the Wiltshire Housing Site Allocations Plan it is screened into appropriate assessment due to the potential impact of recreational pressure on stone curlew in combination with other plans and projects.
- The qualifying features for Salisbury Plain SPA are non-breeding hen harrier and breeding populations Eurasian hobby, common quail and stone-curlew.
- Conservation objectives for the SPA and supplementary advice for implementing them have been published by Natural England (NE).
- Development coming forward under the Wiltshire Core Strategy is only anticipated to impact one of these species, the stone-curlew.
- This is a ground nesting species which research shows is particularly sensitive to disturbance by people and people with dogs.
- The unique character of the Plain attracts many visitors and a recent study has demonstrated 75% of these live within 6.4 km.
- Within this zone housing allocations from the Core Strategy, Housing Site Allocations Plan, Army Basing Programme and Neighbourhood Plans have the potential to lead to significant effects through their combined recreational pressure.
- The Council's housing plans are mitigated through a project funded by the Community Infrastructure Levy (CIL) which records where stone-curlews breed and works with farm managers to maximise breeding success.
- The project was agreed with Natural England in 2012 and reviewed in 2018 and continues to provide an effective, timely and reliable means of mitigating any additional effects arising from new residential development.
- The quintennial visitor survey next due for August 2020, has been postponed until August 2021 due to COVID 19 restrictions as, in order to repeat the surveys in a consistent way, there would be unacceptable degree of face to face contact between surveyors and a large number of visitors.
- In addition, these restrictions mean that monitoring of stone curlew nesting and liaison with land managers which usually starts in April has been delayed until survey personnel are able to resume working safely.
- In a worst case scenario there would be the loss of a season's breeding data and plot management would be uninformed by the latest survey data.
- Visitor patterns are likely to be atypical this year as people are being advised to reduce unessential travel while on the other hand having more time than usual to walk their dogs while on furlough leave.

- Birds will also be experiencing atypical plot management with implications for the chances of failed breeding and second broods.
- The consequences of the project not running for 2020 on the conservation objectives relating to stone curlew are expected to be insignificant if it is a temporary dip in delivery that can be compensated for in remaining years.
- Survey results from the exceptional year of 2019, show there is considerable headroom in terms of numbers of breeding pairs and productivity to withstand any foreseeable down turn in 2020 due to the COVID 19 situation even if this was to be combined with a period of poor weather.
- A further review of the project will be undertaken in the lead up to the next season in order to take account of the post COVID 19 situation; make every effort to ensure the project resumes in 2021, and; assess opportunities to recover lost ground on delivery.
- It is recognised that the pressures at Salisbury Plain are changing and in the future further mitigation for this species may be necessary.
- Experience has demonstrated landowners are willing to take up conservation measures and that interventions can be effective at sustaining the population.
- Where such measures may be insufficient, future housing plans may need to refocus housing delivery.
- For the time being the current strategy, in combination with mitigation implemented for the Army Basing Programme, appears to be adequate to support housing numbers up until 2026 even if these are above figures in the Wiltshire Core Strategy and Housing Site Allocations Plan.
- The Council is therefore able to conclude beyond reasonable scientific doubt, that development proposed under this application would not lead to adverse effects on the integrity of the Salisbury Plain SPA.

#### *River Avon SAC*

- WCS policy CP50 (Biodiversity and Geodiversity) and the NPPF requires the Local Planning Authority to ensure protection of important habitats and species in relation to development and seeks enhancement for the benefit of biodiversity through the planning system.
- The site is situated within the River Avon Special Area of Conservation (SAC) catchment area.
- The SAC is designated for several species of wildlife that depend on pristine water quality that is typical of chalk rivers such as the Avon.
- It is part of a network of sites across Europe designated in order to protect these and other species vulnerable to man-induced habitat change.
- This SAC is particularly vulnerable to the effects of pollutants including phosphate and nitrogen which may enter the river for example at sewage treatment works or from fertilizers applied to farmland throughout the catchment.
- All European sites are protected under the Habitats Regulations 2017.
- Under these Regulations, where a land use authorisation, has the potential to adversely affect a European site, it is necessary for the “competent authority” to consider whether the activity being authorised would impact on any of the designated features and if so to undertake an appropriate assessment to determine whether there is a risk it could lead to a loss of the integrity of the site either alone or in combination with other plans and projects.
- The ‘competent authority’, for planning applications is ‘the Local Planning Authority’.
- Regulation 63 of the Habitats Regulations 2017 states the responsibilities for competent authorities thus:
  - *A competent authority, before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which—*

- *is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and*
- *is not directly connected with or necessary to the management of that site, must make an appropriate assessment of the implications of the plan or project for that site in view of that site's conservation objectives.*
- *A person applying for any such consent, permission or other authorisation must provide such information as the competent authority may reasonably require for the purposes of the assessment or to enable them to determine whether an appropriate assessment is required.*
- The Local Planning Authority therefore has to give greater scrutiny to the effects of development on such sites.
- As explained by WCS policy CP69 (Protection of the River Avon SAC), currently, phosphate concentrations exceed the appropriate targets required by the conservation objectives for the River Avon SAC.
- Since the WCS was adopted, further research has demonstrated that the Nutrient Management Plan prepared to ensure development related phosphate emissions would be more than offset by reductions in agricultural inputs, is insufficiently reliable for appropriate assessment purposes.
- The Planning Authority, on the advice of Natural England, is now committed to ensuring that all development which it authorises is 'phosphate neutral'.
- In order to deliver phosphate neutral development, the Council has signed up with other relevant local authorities to deliver an 'Interim Delivery Plan'.
- This identifies specific phosphate reduction measures which will be paid for using CIL money, the quantity of phosphate purchased annually being sufficient to offset the quantum of approved dwellings being occupied in that year.
- However, Natural England has recently questioned the Council's delivery mechanisms and advised that until the Council can demonstrate adequate phosphate reductions are in place for the coming year, it is unlikely that any appropriate assessments will be able to conclude with sufficient certainty that there will be no adverse effects on the River Avon SAC both alone and in-combination with other plans and projects.
- The Local Planning Authority is not therefore currently able to confirm that this residential development which lies within the River Avon catchment will be phosphate neutral and thus that it will not have a significant effect on the SAC
- This application involves the provision of a new dwelling from conversion and demolition of agricultural buildings in the River Avon Catchment Area.
- As it has potential to increase phosphate loading into the River Avon SAC, the development must be appraised in line with the Habitat Regulations by an Appropriate Assessment.
- In view of the uncertainty on the phosphate issue at this time, the Council's Ecologist has confirmed that the AA cannot be concluded favourably and thus the proposal fails to meet the requirements of the Habitat Regulations.
- Previous permissions should not be taken into account. It's the current situation (unbuilt) that forms the baseline for an AA.
- I raise an objection on this basis accordingly.

#### **Drainage – No Objection**

- The further information that has been submitted looks to be acceptable.

#### **Environment Agency – Sequential Test is Required**

- You confirmed that it is your conclusion that the application cannot be considered as a conversion and that it forms a new build instead.
- The flood map shows the site to be affected by flood zone 2.



- It is important to note that the flood map is indicative in nature and that, without modelling evidence to show otherwise, we must assume that flood risk will be as shown by the Flood Map or worse due to the affects of climate change and mapping inaccuracies.
- If the applicant wishes to dispute the Flood Map they would need to embark on an official process with the EA.
- This would usually involve new modelling at their cost and can be time consuming.
- A wall around a site cannot be automatically assumed to play the role of a flood defence.
- There would need to be a formal structural assessment to prove that it could withstand flood waters.
- As you feel the development would actually constitute a new build, in Flood Zone 2, according to NPPF, this triggers the requirement for the Sequential Test to be applied.
- Therefore the LPA will need to undertake the Sequential Test for this application.

#### **Wessex Water – No Objection**

- The planning application indicates that foul sewerage will be disposed of via the public sewer
- Rainwater running off new driveways and roofs will require consideration so as not to increase the risk of flooding.
- The current planning submission indicates that rainwater (also referred to as “surface water”) will be disposed of via the existing watercourse.
- If the proposals require new connections to the public foul sewer and public water mains an application to the water authority will be required
- According to our records there are no recorded public sewers or water mains within the red line boundary of the development site.
- One of our main priorities in considering a surface water strategy is to ensure that surface water flows, generated by new impermeable areas, are not connected to the foul water network which will increase the risk of sewer flooding and pollution.
- It is indicated that surface water will be disposed of via the existing watercourse. This is subject to agreement with the local planning authority.
- There must be no surface water connections into the foul sewer network.

#### **8. Publicity**

This application was advertised through the use of site notices; an advert in the local press; and letters of consultation.

**Letters** – 20 letters of support received from the residents of Manor Stables, The Old Manor House, Milston House, Milstone Cottage, 255 & 256 Church Road, Milston; The Barn House, Brigmerston Farmhouse, Brigmerston House, 10 & 12 Brigmerston; and Romany Rye, Lancaster & 10 The Ham, Church Street & 34 Windsor Road, Durrington. The following comments made:

- This application is a sympathetic development of the site.
- The principle of development at this site has been established previously but this application seeks to improve on that permission by restoring the site and maintaining it as a single dwelling.
- The only place where this site is visible from the public highway is the footpath between Milston and Durrington.
- This application seeks to maintain the character of the site from that public view by retaining and enhancing the barns.
- The permitted development fundamentally changes the aspect of the site from the public highway changing its character forever. That is not positive development.

- By retaining Barn 3 the story of the old dairy's development is retained and enhanced.
- From my assessment of the application it would be wrong to consider the conversion of barn 2 in isolation, it is an integral part of the application, furthermore the proposals seek to enhance the building by recladding the structure.
- This could not be considered major rebuilding and it would be wrong of the council to rely on the previous appeal decision which was for a fundamentally different proposal (i.e. separate dwellings).
- As the proposal satisfies the other tests set out in CP48 the council would open itself to a claim cost at appeal if it were to refuse this application relying on the appeal decision ref 18/02945/FUL.
- This is a considered and sympathetic proposal which improves on the previously approved consent, which was secured at appeal.
- It would not be in the public interest to refuse this application and would constitute a waste of tax payers' money if the council were to refuse.
- The Kennedys have fully embedded themselves into the village life.
- I have the most fond memories of spending the vast majority of my childhood at The Old Dairy in the beautiful environment near the river.
- I think it would be both unnecessary and against Environmental interest to level the buildings rather than convert them, particularly when they are structurally sound.
- The sooner it is converted into a happy family home rather than a building site the better this will be for the family and the surrounding residents.
- I am certain that the proposed plans by the Kennedys will fit with village environment
- The plan is to alter the structure and tidy up the area and join two unsightly buildings to make a family home. They are not knocking it down and putting up some ugly construction.
- The family have shown all the villagers the plans and not one person objected
- the Old Dairy is currently a derelict eye-sore
- The previous tenant has left the buildings fall into disrepair
- The holistic and sympathetic approach to the design and use of Barns 1 and 2 meet greatly with our approval
- The Barns would retain the history of the farmyard and would be more aesthetically pleasing to both passers-by and us who overlook the plot.
- More importantly we believe it would create an ideal living space for a family of six.
- What we cannot understand is why Barn 2 needs to be completely raised to the ground, when structurally most elements of the building have been deemed fit for use for conversion.
- Has consideration been given to the environmental impact this would have, not just on demolishing it, but also of disposing of it to landfill
- only utilising barns 1 & 3 to house a large family is sufficient usable space, particularly as any linkage between the two would be more difficult, expensive and probably quite unattractive due to its span
- We are aware of previous attempts to develop the site and the outcomes but we think this proposal is different, far more positive and not with financial gain as a motive
- having a renovated and 'new' building sympathetically constructed using many of the existing materials was one to be welcomed
- It is perfectly reasonable to have a larger family home for six people as opposed to having to smaller houses with no physical connection between the two as envisaged in the original planning approval
- The officer's proposed reduction in floor area is likely to render the project uneconomic and ensure the site's continued dereliction
- We believe that the proposed plans are in proportion to the site and the houses in the surrounding locality and have no issue with their scale

## 9. Planning Considerations

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

### 9.1 Principle of Development

As is identified above, the site is situated on the edge of the small hamlet of Milston. Milston is not defined as any kind of settlement in planning terms by WCS policies CP1 (Settlement Strategy) CP2 (Delivery Strategy) or CP4 (Amesbury Community Area), and therefore the hamlet and this site, are both situated in designated countryside. In such an unsustainable countryside location there is a general presumption against new development, particularly of a residential nature. However WCS policy CP48 (Supporting Rural Life) is one exception to this general policy of restraint. This policy confirms that:

*Proposals to convert and re-use rural buildings for employment, tourism, cultural and community uses will be supported where they satisfy the following criteria:*

- i. The building(s) is/are structurally sound and capable of conversion without major rebuilding, and with only necessary extension or modification which preserves the character of the original building.*
- ii. The use would not detract from the character or appearance of the landscape or settlement and would not be detrimental to the amenities of residential areas.*
- iii. The building can be served by adequate access and infrastructure.*
- iv. The site has reasonable access to local services.*
- v. The conversion or re-use of a heritage asset would lead to its viable long term safeguarding.*

*Where there is clear evidence that the above uses are not practical propositions, residential development may be appropriate where it meets the above criteria. In isolated locations, the re-use of redundant or disused buildings for residential purposes may be permitted where justified by special circumstances, in line with national policy.*

In this instance the site consists of 4 buildings which are situated around a courtyard/farm yard. One of the buildings, building D is of traditional form, design and construction with an attractive mix of flint and brick construction, which is contemporary with the listed buildings to the north of the site. Otherwise the remaining 3 buildings are of modern construction and are in a various states of disrepair. The remaining buildings are steel framed with a hotch potch of corrugated steel and block work infill. Some are also open sided on one or more elevations. They are of typical modern agrarian character which are found across the Wiltshire countryside, but they are not particularly attractive or worthy of retention and normally it would be expected that if such buildings are no longer necessary for agricultural purposes, they should be removed from the site.

Whilst structural surveys have been submitted with the application (and with past applications) which have found buildings A, B and D to be structurally sound; soundness of the existing structure and amount of work required to 'convert' a building are two different assessments and both need to be satisfied in order to comply with WCS policy CP48 (Supporting Rural Life). If this application were to be considered without reference to the planning history at the site, and solely against Wiltshire Core Strategy policy CP48 (Supporting Rural Life) outlined above, it would be concluded that only 1 of the buildings (building D) is worthy of retention or capable of conversion without major rebuilding, alteration or modification. Given their type, construction and condition, none of the other 3 buildings are capable of conversion without significant alteration and re/new build. Indeed whilst the existing frames are to be retained and some of the existing walls are to be over clad, buildings A and B are both to be entirely

reclad on all 4 elevations; both are to be reroofed; and the entire eastern elevation of building B is to be built from scratch as this is currently open sided. Indeed the submitted structural survey concludes that building B is '*...to be upgraded to suit modern Building Regulations. This should be achievable within the existing envelope*' but it confirms that the asbestos roof and upper wall plates are to be replaced and as the building is currently open sided, a whole new wall insert will be required on this elevation. It also appears that a new level, internal floor will be created. New openings are to be created on all elevations; a new glazed link; and a new canter levered balcony are also proposed. Altogether, it is considered that the amount of works required to the buildings to enable them to function as a dwelling, will go well beyond what is accepted within the remit of WCS policy CP48 (Supporting Rural Life) and go beyond what could be considered to be a 'conversion' of the existing building.

A recent appeal was dismissed on similar grounds on a site in Normanton (considered under ref: 18/02945/FUL) and confirms this method of applying WCS policy CP48 (Supporting Rural Life). In that instance the building that was the subject of the appeal was in a significantly better starting condition, design and construction than the buildings on this site, but was open fronted (see PHOTOGRAPH 5 below). The proposals involved the conversion of this outbuilding into incidental home office accommodation.



**PHOTOGRAPH 5 – Existing barn considered by 18/02945/FUL**

In that instance the inspector confirmed that:

*'The evidence presented by the appellant indicates that, prior to the submission of the planning application, the assessment carried out by a structural engineer concluded that the building was structurally sound...Whilst I accept that no structural alterations would be required to enable the conversion of the existing building, it would nevertheless require the front elevation to be infilled with glazing and oak cladding, as well as the erection of internal partitions and insulation works...I consider that the building would not be capable of conversion without major rebuilding, by reason of the extent of the*

*works required as part of the proposal. The proposal would therefore conflict with the requirements of Core Policy 48i of the Wiltshire Core Strategy’.*

The current application involves 2 buildings that are in a significantly worse starting condition than this case in Normanton. Thus the works involved in the proposed conversion of buildings A and B into a single dwelling will conflict with the provisions of WCS policy CP48 (Supporting Rural Life) and are not supported in principle.

However, as can be seen from the planning history for the site, both buildings A and D have received consent in the past, under the far more permissive Class Q permitted development route, to be converted into 2 dwellings at this site (under ref: 17/01873/PNCOU). This is because, unlike WCS policy CP48 (Supporting Rural Life), Class Q of the GDPO allows for building operations consisting of the installation or replacement of new windows, doors, roofs, or exterior walls to the extent *‘reasonably necessary for the building to function as a dwelling house’*. The level of works permitted in such conversion operations are significantly greater than under the assessment of WCS policy CP48 (Supporting Rural Life). Whilst this permission has now expired, the Class Q process and considerations has not changed significantly since the previous decision was issued and it is therefore likely that should a similar application be submitted, buildings A and D would still receive consent for their conversion for residential purposes. This potential therefore represents a legitimate fallback position for the consideration of this application, even though this application is applying for full planning permission in line with adopted policy, rather than prior notification. Therefore, despite building A not meeting the criteria of CP48 (Supporting Rural Life) regarding the works required to convert the building; and despite no alternative uses being investigated before residential use is proposed, the identified fallback position means that the conversion of building A for residential purposes remains acceptable.

However, this proposal also involves a new link extension and ‘conversion’ of building B in order to create a large, 4 bedroom dwelling out of both buildings A and B. The plans confirm that building A will provide the bedroom accommodation whilst building B will provide the living accommodation. Both buildings are to be clad in one material and a glazed extension will link the two. However, the Council is still not convinced that building B is capable of conversion under the remit of WCS policy CP48 (Supporting Rural Life) especially in the context of the Normanton appeal detailed above.

As can also be seen from the planning history above, building B has been subject to a lot of planning history including a refusal for its conversion into a separate dwelling and a dismissed appeal. The reason why the conversion of this building was previously refused is because, even under the far more permissive Class Q route, the building was still not considered to be capable of conversion in the first instance. The Inspector, in considering the appeal for building B, confirmed that:

*‘The appellant has provided a structural condition report (dated September 2015) that recommends the building can be converted as proposed, with the structural fabric generally being retained. The report acknowledges the building is in a poor state of repair and that the external roof and upper wall cladding would require removal and replacement. Having seen the poor condition of this sheeting at my site visit, I have no reason to disagree.*

*...For the building to function as a dwelling, it may be appropriate to undertake internal structural works, including to allow for a floor...Furthermore, the size of the open front of the barn would be such that the building could not function as a dwelling unless new walls and large glazed panels were constructed. Whilst the steel frame would be retained, and the installation or replacement of exterior walls falls under the scope of*

*permitted development, the extent of the open side along with the provision of a new roof and large areas of replacement walls to the other elevations would go beyond what could be described as conversion.*

*...Taken as a whole, the building would not be capable of functioning as the proposed dwelling without significant works. New roofs and new and replacement walls would be necessary to allow the barn to function as a dwelling. Consequently, the extent of the totality of the works would go beyond conversion and that which would be reasonably necessary for the building to function as a dwelling. As such the existing barn is not already suitable for conversion to residential use, and the works required would not fall within the scope of that permissible under Class Q'*

Given the planning history; and the more restrictive provisions of WCS CP48 (Supporting Rural Life), it is considered that the proposed works involved to 'convert' building B go beyond what would be acceptable and represent significant new build/alteration in an unsustainable countryside location.

Saved SDLP Policy H31 allows extensions to existing dwellings in the countryside but this is only on the basis that:

- (i) the extension is subservient in size to the existing dwelling and house plot and does not substantially alter the character of the dwelling;*
- (ii) the design of the extension is in keeping with that of the existing dwelling and uses complementary materials; and*
- (iii) the extension would not create, or be capable of creating, a separate dwelling.*

In this instance, given the size of building B it is not considered that the proposals would satisfy these criteria or represents an extension to building A either. The wing that would be created on the site of building B would not be subservient to the dwelling that could be created by building A and it would be entirely possible that this could be separated from the main dwelling and create a separate dwelling at a later date. The proposed 'conversion' of building B for the purposes identified are therefore considered to be contrary to the provisions of WCS policy CP48 (Supporting Rural Life); SDLP policy H31; and have not addressed or overcome the concerns raised about this building in the previous refusal/appeal decisions. The proposals are recommended for refusal in principle accordingly.

Notwithstanding this principle objection to the proposals, the implications of the development for the character of the area, design, heritage, highway safety, neighbouring amenities, flooding and ecology must also be assessed. These matters are therefore considered in more detail below.

## **9.2 Heritage, Character & Design:**

The site is not situated in a conservation area but the access to the site is opposite 2 Grade II listed cottages. The site is also situated within a special landscape area, as defined by saved SDLP policy C6 and is surrounded by 3 public footpaths. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires 'special regard' to be given to the desirability of preserving a listed building or its setting. In having 'special regard' the NPPF requires an assessment to be made as to whether the proposal causes 'substantial harm', 'less than substantial harm' or no harm to the asset.

In this instance, the Council's Conservation Officer has confirmed that the retention of these unattractive modern sheds in a converted form will not offer an enhancement to the setting of anything and that neither of the buildings in this application are considered to be worthy of retention in the first place. However it is not considered that the proposals, given their position on the site and in relation to the nearby listed cottages, will result in any harm for the setting of these listed buildings.

Whilst the proposed buildings are large and will be visible from the surrounding footpaths, their potential impact for the visual amenities of the area or special landscape area are unlikely to be any different to the impact of the existing buildings. Indeed much local support for the scheme has been received as it is considered that the development will vastly improve the 'eye sore' that currently exists on the site. Some of the elements are considered to be a little domestic for such an agricultural conversion (such as the proposed glazed balcony on the southern elevation of building B and the plethora of roof lights) and if the application were being recommended for permission, amendments would be sought to address these elements. Overall however it is not considered that the proposals would have any greater impact for the character of the area; nearby heritage assets; or landscape setting than the existing development on the site.

With regard the proposed new outbuilding to provide garaging facilities, given that the site has had consent for residential uses in the past and no permitted development rights were removed from the dwellings as part of the previous permission to control this type of development, the principle of a new detached garage on the site is accepted. In this instance the proposals involve the replacement of building C with a 2 berth garage and additional workshop. This has been designed in a similar industrial vernacular as the proposed dwelling and is to be constructed with similar materials. Whilst it is of significant size, it is considered that the site can accommodate the additional development and the impact would be little different to that caused by the building it is to replace (building C). This element is also therefore deemed to be acceptable in this regard.

#### **9.4 Neighbouring Amenities:**

WCS policy CP57 (Ensuring High Quality Design & Place Shaping) also requires new development to have *'regard to the compatibility of adjoining buildings and uses, the impact on the amenities of existing occupants, and ensuring that appropriate levels of amenity are achievable within the development itself, including the consideration of privacy, overshadowing, vibration and pollution'*. The NPPF also confirms that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

Again given the position of the buildings in the countryside and relative to any neighbouring properties, it is not considered that the proposals would result in any significant implications for any neighbouring amenities in terms of loss of light or overlooking. The proposals are therefore considered to be acceptable in this regard too.

#### **9.5 Highway Safety:**

The Highway Authority has reconfirmed that the development of this site for a residential dwelling in the countryside would be contrary to the provisions of WCS policies CP60 (Sustainable Transport) and CP61 (Transport & Development), which seek to reduce the need to travel particularly by private car, and support and encourage sustainable, safe and efficient movement of people and goods. As is highlighted above however, subject to compliance with the provisions of Class Q and/or WCS policy CP48 (Supporting Rural Life), a dwelling *could* be accepted as an exception on this site.



The proposed development would utilise the existing access off Church Road to the north and also proposes a double garage and large areas of hardstanding for additional parking and on site turning provision. The Highway Authority has confirmed that the proposals are unlikely to result in any significant implications for highway safety accordingly.

#### **9.6 Flooding & Drainage:**

As is identified above the site is partially situated in Flood Zones 2 and 3. The application is therefore accompanied by a Flood Risk Assessment and during the course of the application additional drainage information has been submitted. Wessex Water and the Council's Drainage Team are both satisfied that the site can be adequately drained.

However, the Flood Zone 2 designation extends into the site on its western edge and partially covers building B which is proposed for 'conversion' to residential purposes as part of this application. The NPPF confirms that Local Planning Authorities should '*...take a proactive approach to mitigating and adapting to climate change, taking into account the long-term implications for flood risk*'. It confirms that '*New development should be planned for in ways that...avoid increased vulnerability*'. Paragraph 155 states that '*Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk*'. Whilst all plans should apply a sequential, risk-based approach to the location of development '*...so as to avoid, where possible, flood risk to people and property. They should do this, and manage any residual risk, by...applying the sequential test and then, if necessary, the exception test*'. Paragraph 158 further confirms that '*The aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding*' and only if this is not possible then the exception test should be applied. Paragraph 164 however confirms that '*Applications for some minor development and changes of use should not be subject to the sequential or exception tests but should still meet the requirements for site-specific flood risk assessments*'.

Whilst this application does propose the conversion/change of use of building B for residential purposes; as has been established above, the level of works involved are considered to go beyond conversion and it is considered that they instead represent new/rebuild. In such a situation, the proposed residential development on parts of the site that are identified as being in Flood Zone 2, need to be appraised by a Sequential Test. This approach has been confirmed by the Environment Agency (EA). In this regard, the fact that prior approval consent has previously been granted for 2 dwellings on this site, both of which would have been located wholly outside of Flood Zone 2 or 3; and that these dwellings would have been entirely self contained and functional without extending into the flood zones, demonstrates that there are alternative options for such a residential redevelopment of the site which do not extend into the flood zones. The current proposal involving new development in Flood Zone 2 is not therefore necessary. The application therefore fails the sequential test in this regard and the development is considered to represent unnecessary and unacceptable development in areas that are at high risk of flooding, contrary to the provisions of the NPPF or WCSS policy CP67 (Flood Risk).

The applicant has insisted that given the ground levels across the site and the existing boundary wall, the flood zone designation is incorrect in this instance. However it is not for the Local Planning Authority to override the flood zone designations. These are produced by the EA and any challenge needs to be made directly to them. The EA has confirmed that there is a formal process for such a challenge, which would '*usually involve new modelling at [the applicant's] cost and can be time consuming*'. The EA has also confirmed that '*the flood map is indicative in nature and that, without modelling evidence to show otherwise, we must assume that flood risk will be as shown by the Flood Map or worse due to the affects of climate change and mapping inaccuracies*'. For the purposes of assessing this application,



and until any such challenge to the flood zone maps is successfully resolved, the Local Planning Authority must therefore assume that the flood zone maps are accurate or even worse as a result of climate change. Therefore it is proper to apply the sequential test in this instance and given that the development proposals fail the sequential test, it is not appropriate to apply or consider the exception test or potential mitigation for any potential flood risk that has been put forward by the applicant. The proposals are also therefore recommended for refusal on this basis accordingly.

## **9.7 Ecology:**

The application was accompanied by an initial ecology survey report which identified potential for bats to use buildings on the wider site. A subsequent ecology survey report has therefore been provided during the course of the application. This has found that no bats are using/roosting in any of the buildings on this site and makes a number of recommendations and suggests biodiversity enhancement measures. These are considered to be acceptable and accord with WCS policy CP50 (Biodiversity and Geodiversity).

However, as is identified above, the site is also situated within 6.4 Kilometres of the Salisbury Plain SPA and is also within the River Avon Special SAC Catchment. The Council's Ecologist has therefore appraised the proposals in line with the Habitat Regulations. The full Appropriate Assessment (AA) for both sensitive ecological receptors have been outlined above but in relation to the Salisbury Plain SPA and implications for Stone Curlews, the Council is able to conclude beyond reasonable scientific doubt, that the proposed development would not lead to adverse effects on the integrity of the Salisbury Plain SPA.

With regard the River Avon SAC however, the Local Planning Authority has to give greater scrutiny to the effects of development on such sites. As explained by WCS policy CP69 (Protection of the River Avon SAC), currently, phosphate concentrations exceed the appropriate targets required by the conservation objectives for the River Avon SAC. Since the WCS was adopted, further research has demonstrated that the Nutrient Management Plan prepared to ensure development related phosphate emissions would be more than offset by reductions in agricultural inputs, is insufficiently reliable for AA purposes. The Planning Authority, on the advice of Natural England, is now committed to ensuring that all development which it authorises is 'phosphate neutral'. In order to deliver phosphate neutral development, the Council has signed up with other relevant local authorities to deliver an 'Interim Delivery Plan'. This identifies specific phosphate reduction measures which will be paid for using CIL money, the quantity of phosphate purchased annually being sufficient to offset the quantum of approved dwellings being occupied in that year.

However, Natural England has recently questioned the Council's delivery mechanisms and advised that until the Council can demonstrate adequate phosphate reductions are in place for the coming year, it is unlikely that any AAs will be able to conclude with sufficient certainty that there will be no adverse effects on the River Avon SAC both alone and in-combination with other plans and projects. The Local Planning Authority is not therefore currently able to confirm that this residential development which lies within the River Avon catchment will be phosphate neutral and thus that it will not have a significant effect on the SAC

It is considered that this application, involving the creation of a new dwelling on this site (ultimately with an ancillary annexe yet to be applied for), has potential to involve an additional household in this River Avon Catchment Area and thus a potential increase in phosphate loading into the River Avon SAC. The development must therefore be appraised in line with the Habitat Regulations by an AA, summarised above. In view of the uncertainty with the phosphate issue at this time, the Council's Ecologist has confirmed that the AA cannot be concluded favourably and thus the proposal fails to meet the requirements of the Habitat

Regulations. Whilst consent has been granted previously on this site for 2 dwellings, this permission has since expired and the proposals have not been implemented. This phosphate issue is a new situation that has occurred since April 2020 and a change in circumstance since the previous applications were considered at the site that now makes the proposals unacceptable. The Council's Ecologist has also confirmed that even if the previous consent had not expired, previous permissions should not be taken into account in this process as it is the current situation (as currently built) that forms the baseline for an AA. An additional reason for refusal is therefore added to the decision accordingly.

### **9.8 CIL/S106**

As of May 2015, Wiltshire Council adopted the Community Infrastructure Levy (CIL). Therefore this proposal may represent chargeable development under the Community Infrastructure Levy Regulations 2010 (as amended) and Wiltshire Council's CIL Charging Schedule. If this application were to be recommended for permission, a note highlighting this requirement to the applicant would have been applied.

### **10. Conclusion**

The site is situated in the countryside where there is a general presumption against unsustainable new development. In this instance the Local Planning Authority is not convinced that the buildings, particularly building B, is capable of conversion without significant new build/modification and therefore represents new residential development in the countryside contrary to the NPPF; and adopted development plan policies. The development also fails the sequential test regarding flood risk and thus constitutes unnecessary new development in Flood Zone 2; and is likely to result in additional phosphate loading in the River Avon SAC. The proposals are recommended for refusal on these grounds accordingly.

## **RECOMMENDATION**

### **REFUSAL**

1. The Local Planning Authority is not convinced that the buildings that are the subject of this application, and particularly building B, are capable of conversion without significant new build/modification and alteration. Building B as proposed is also too large to be considered a subservient extension to building A and/or would make the development easily severable in the future. The proposals are therefore considered to be contrary to the provisions of the National Planning Policy Framework; Wiltshire Core Strategy policies CP1 (Settlement Strategy), CP2 (Delivery Strategy), CP4 (Amesbury Community Area), CP48 (Supporting Rural Life); CP60 (Sustainable Transport) and CP61 (Transport & Development); and saved SDLP policy H31.
2. The application site is partially located in Flood Zones 2 and 3 and building B is situated partially in Flood Zone 2. The delivery strategy for new development in the adopted Wiltshire Core Strategy is based upon sustainable principles and in terms of flood risk this means the steering of development to areas at lower risk of flooding (i.e. Flood Zone 1). It is considered that the proposed development fails to satisfy the 'sequential test' required by the National Planning Policy Framework (paragraph 158) as there are alternative options available that do not require development within Flood Zone 2. The proposals would therefore conflict with the National Planning Policy Framework and Wiltshire Core Strategy policies CP2 (Delivery Strategy) and CP67 (Flood Risk).
3. The site is situated within the River Avon catchment area that is a European site. 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 this European site causing further deterioration to it. The application does not include detailed proposals to mitigate the

impact of these increased nutrients and consequently, without such detailed proposals, the Council as a competent authority cannot conclude that there would be no adverse effect on the integrity of this European Site as a result of the development. The proposal would therefore conflict with The Habitat Regulations 2017; Wiltshire Core Strategy policies CP50 (Biodiversity and Geodiversity) and CP69 (Protection of the River Avon SAC); and paragraphs 175 and 177 of the National Planning Policy Framework.

This page is intentionally left blank



This page is intentionally left blank

## REPORT OUTLINE FOR AREA PLANNING COMMITTEES

Report No.

<b>Date of Meeting</b>	29 <sup>th</sup> September 2020
<b>Application Number</b>	20/05322/VAR
<b>Site Address</b>	18 Burford Road, Harnham, Salisbury, Wiltshire, SP2 8AN
<b>Proposal</b>	Variation of 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
<b>Applicant</b>	Kiddi Galore Nursery
<b>Town/Parish Council</b>	SALISBURY CITY
<b>Electoral Division</b>	Salisbury Harnham - Councillor Sven Hocking
<b>Grid Ref</b>	414764 128628
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Christos Chrysanthou

### Reason for the application being considered by Committee

Councillor Hocking has called in the application citing concerns regarding the relationship to adjoining 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. Planning History

18/10898/VAR Variation of condition 3 of planning permission 18/00376/FUL to allow an increase in the permitted number of children attending the nursery AC  
 18/00376/FUL Single storey flat roof extension AC  
 S/2012/0574 Retrospective application for the erection of a log cabin in garden for use by nursery school APP  
 S/2008/0825 Single storey rear extension, front entrance porch and conversion of existing loft area to form office space AC  
 S/1987/1849 Change of use from private dwelling to use by Montessori school and alteration of access APP

#### 3. The Proposal

Variation of 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

#### **4. Planning Policy**

##### National Planning Policy Framework

- 2. Achieving Sustainable Development
- 4. Decision-making
- 12. Achieving well-designed places

##### Wiltshire Core Strategy

- Core Policy 1 Settlement Strategy
- Core Policy 2 Delivery Strategy
- Core Policy 57 Ensuring high quality design and place shaping
- Core Policy 49 Protection of rural services and community facilities
- Saved policy PS5 Educational Facilities

#### **5. Summary of consultation responses**

##### Salisbury City Council - Objection

SCC objects to this application.

##### WC Highways – No objection

I refer to the above mentioned application, to which, no Highway objection is raised.

##### WC Public Protection – No objection (subject to conditions)

I write with reference to a variation application for the above premises which proposes to Variation of 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

to allow the hours of play in the garden nursery from 09.00 to 18.00 Monday to Friday.

Currently the condition states 'The garden shall not be used for children's play outside the hours of 09.30 and 11.30, and between 14.30 to 16.00 Mondays to Fridays. The number of children able to play outside at any one time shall be restricted to a maximum of 15 at any one time.'

Whilst this department has not received any noise complaints following the initial condition variation application in 2018, given that the nursery garden is surrounded by residential properties we would recommend (if possible) that a condition is imposed to continue to restrict the amount of children outside at one time to 15 to minimise any noise disturbance to local residents and protect amenity levels, but that the garden can be used between the hours of 09.00 to 18.00 Monday to Friday.

A Noise Management Plan was originally suggested by Environmental Health. However, following subsequent discussions, this was considered to be difficult to enforce. The Environmental Health has also indicated that it does not wish to see amplified music played outdoors. Subsequently, the conditions suggested to Members at the end of this report have been agreed with Environmental Health.



## **6. Publicity**

### Neighbour / Third party representations

The application was advertised by neighbour notification letters. A petition letter citing concerns regards noise and the impact on residential amenity received 25 signatures. A further letter of objection was received citing concerns regards the justification of the proposal and regards to noise and the impact on residential amenity.

## **7. Planning Considerations**

- Principle of development
- Planning history including relevant appeal decisions
- Noise and impact on residential amenity

## **8. Assessment**

The current use of the site is a community facility, and the proposal may be considered acceptable in principle and in accordance with national planning policy regards sustainable and healthy communities, and the aims of local plan policies, particularly PS5 and CP49, provided the proposal does not unduly impact on residential amenity including the impact of noise, and provided highways/parking considerations are addressed.

The application site is a detached building which operates as a nursery and is situated within an established residential area in Harnham, Salisbury. The site has a varied planning history including appeal decisions. In 2013 the Planning Inspectorate allowed the erection of a log cabin to be used as ancillary school accommodation (appeal ref. APP/Y3940/A/12/2185530).

More recently, planning permission was granted for the erection of a single storey flat roof extension (LPA ref: 18/00376/FUL) which replaced the log cabin that was sited in the garden area. The application for the single storey extension (LPA ref: 18/00376/FUL) was assessed on the basis that there would not be an increase in pupil numbers.

A subsequent variation of condition application was submitted under LPA ref: 18/10898/VAR proposing an increase in pupil numbers to a maximum of 65. In the absence of any objections from WC Highways and WC Public Protection, the variation to increase pupil numbers was determined to be acceptable in principle and the application was approved with conditions.

The condition subject of this variation of condition application restricted the times of use of the garden and the number of children allowed to play outside at any one time. Condition 04 of the variation of condition application approved under LPA ref: 18/10898/VAR states:

*04 The garden shall not be used for children's play outside the hours of 09.30 and 11.30, and between 14.30 to 16.00 Mondays to Fridays. The number of children able to play outside at any one time shall be restricted to a maximum of 15 at any one time.*

*REASON: In the interests of the amenity of the area and to protect the living conditions of nearby residents.*

This variation of condition application proposes to allow the hours of play in the garden nursery from 09.00 to 18.00 Monday to Friday. It is noted that planning approval under LPA ref: 18/00376/FUL for the extension to the building that replaced the log cabin in the garden had a similar condition (05), which reads:

*05 The garden shall not be used for children's play outside the hours of 0900 to 1800 hours Mondays to Fridays.*

*REASON: In the interests of the amenity of the area and to protect the living conditions of nearby residents.*

The above condition actually originated from the Appeal Decision Letter (PINS Ref: APP/Y3940/A/12/2185530) and was imposed by the Planning Inspectorate having allowed the appeal of the refusal of planning permission under LPA ref: S/2012/574/FULL for the log cabin to the rear of the existing school to be used as ancillary school accommodation. The same condition was subsequently copied over to the decision notice of planning permission LPA ref: 18/00376/FUL for the extension that replaced the log cabin.

It is noted that preceding planning conditions originating from the appeal decision would have allowed unrestricted outside play time for up to 45 children at any time between 09:00hrs and 18:00hrs.

WC Public Protection have been consulted on this variation application and do not raise an objection subject to (in particular) a revised condition that would restrict the amount of children outside at one time to a maximum of 15 children, and restrict outdoor music.

In officers view such restrictions represents a benefit to neighbour amenity compared to the previous condition attached to the appeal decision by the Planning Inspectorate. The conditions at the end of this report have been agreed with the Environmental Health Officer.

The applicant has also stated that:

- There will be no more than 15 children in the garden at any one time.
- At all times the children are supervised and any increase in noise is dealt with straight away.
- All children will be staggered for the use of the garden.
- There will be no music at any time in the garden.
- All necessary actions will be taken to limit noise as this is a very important part of the childrens day and outside play is required for their health and wellbeing.

With regards to the alleged noise related complaints, officers are aware that since the 2018 planning approvals, two planning enforcement cases were opened in May 2019 and another in September 2019 which were dealt with accordingly. There does not appear to be any record on the WC Public Protection database of any complaints from local residents concerning noise from the nursery in recent years.

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

The objections made by the neighbours are noted and have been taken into full consideration during the planning process. In the absence of an objection from WC Public Protection, and the ability to use conditions to control the use, the Local Planning Authority considers a refusal would be difficult to justify, particularly when this variation would provide a restriction on the number of children allowed outside play at any one time.

Consequently, subject to a suitable conditions as outlined below, the proposed variation of condition is considered to accord with the objectives of saved policy PS5 and core policies 49 and 57 of the Wiltshire Core Strategy and the aims of the NPPF. Therefore, the Local Planning Authority considers that this variation of condition application should be granted.

### **RECOMMENDATION:**

Approve subject to conditions:

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

Site Location Plan Date rec. 24/06/2020

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

2 The maximum number of children permitted to attend the nursery at no. 18 Burford Road at any one time shall not exceed a maximum of 65.

REASON: In the interests of the amenity of the area and to protect the living conditions of nearby residents.

3 There shall be no operational use of the nursery outside the hours of 07:00hrs and 19:30 hrs Mondays to Fridays, and none at all on Saturdays, Sundays and Public Holidays.

REASON: In the interests of the amenity of the area and to protect the living conditions of nearby residents.

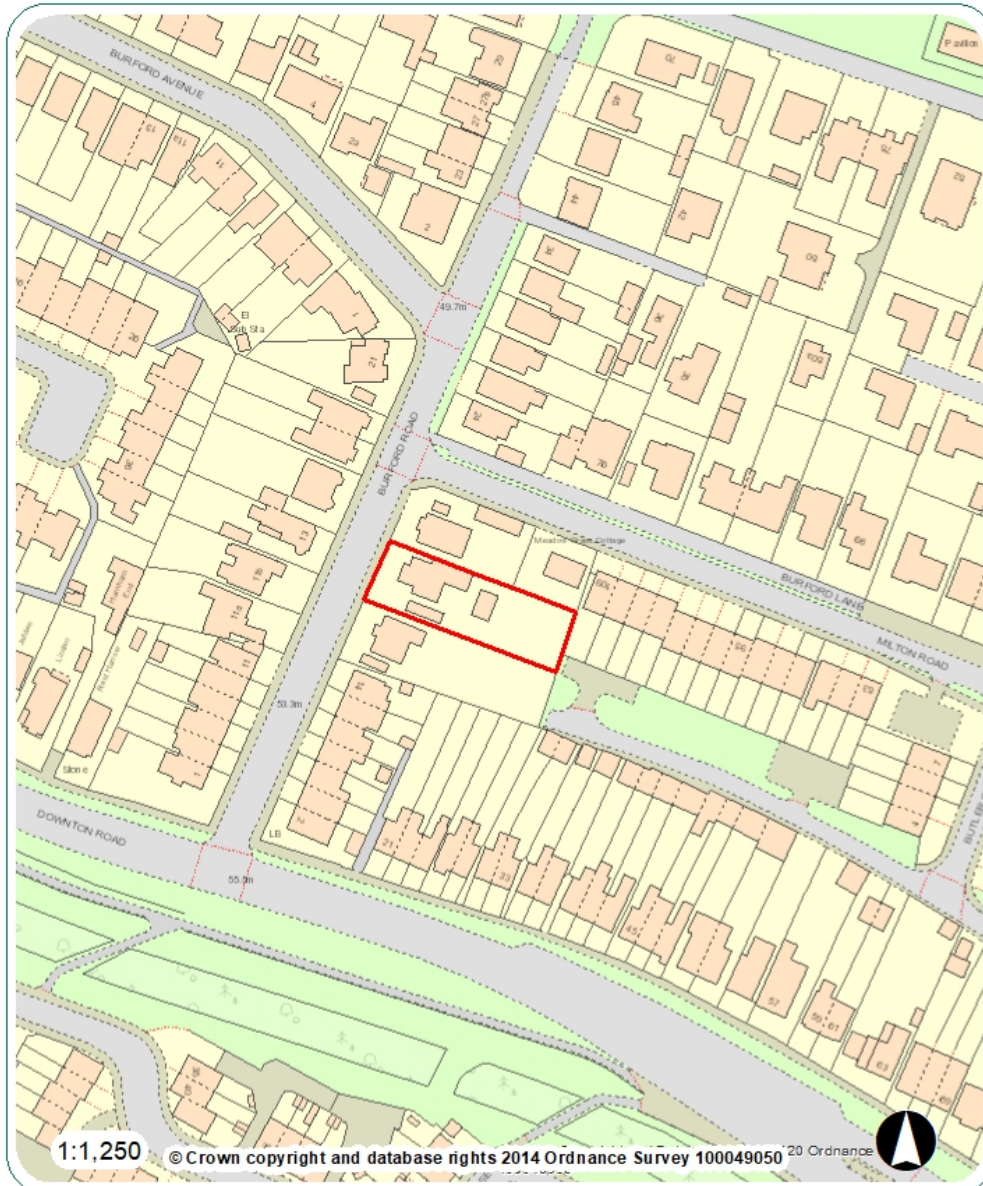
4 The garden and other outdoor space shall not be used by children outside the hours of 09:00hrs to 18:00hrs Mondays to Fridays. The number of children able to use the garden and other outdoor space at any one time shall be restricted to a maximum of 15 at any one time.

REASON: In the interests of the amenity of the area and to protect the living conditions of nearby residents.

5. No amplified music shall be played outside the main building or anywhere within the garden/amenity area serving the building.

REASON: In the interest of amenity.

This page is intentionally left blank



This page is intentionally left blank