

AGENDA

Meeting: Western Area Planning Committee

Place: Council Chamber – County Hall, Bythesea Road, Trowbridge, BA14 8JN

Date: Wednesday 16 February 2022

Time: 3.00 pm

Please direct any enquiries on this Agenda to Ellen Ghey, of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 718259 x18259 or email Ellen.ghey@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

Membership:

Cllr Christopher Newbury (Chairman)	Cllr Stewart Palmen
Cllr Bill Parks (Vice-Chairman)	Cllr Antonio Piazza
Cllr Trevor Carbin	Cllr Pip Ridout
Cllr Ernie Clark	Cllr David Vigar
Cllr Andrew Davis	Cllr Suzanne Wickham
Cllr Edward Kirk	

Substitutes:

Cllr Matthew Dean	Cllr George Jeans
Cllr Jon Hubbard	Cllr Gordon King
Cllr Tony Jackson	Cllr Mike Sankey
Cllr Mel Jacob	Cllr Graham Wright

Covid-19 Safety Precautions for Public Attendees

To ensure COVID-19 public health guidance is adhered to, a capacity limit for public attendance at this meeting will be in place. **Please contact the officer named on this agenda no later than 5pm on Monday 14 February if you wish to attend this meeting.**

To ensure safety at the meeting, all present at the meeting are expected to adhere to the following public health arrangements to ensure the safety of themselves and others:

- Do not attend if presenting symptoms of, or have recently tested positive for, COVID-19
- Wear a facemask at all times (unless due to medical exemption)
- Maintain social distancing
- Follow one-way systems, signage and instruction

Where it is not possible for you to attend due to reaching the safe capacity limit at the venue, alternative arrangements will be made, which may include your question/statement being submitted in writing.

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Public Participation

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

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

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

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

AGENDA

Part I

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

1 **Apologies**

To receive any apologies or substitutions for the meeting.

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

To approve and sign as a correct record the minutes of the meeting held on 19 January 2022.

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**

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 **Monday 14 February 2022.**

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).

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

Those submitting statements would be expected to attend the meeting to read the statement themselves, or to provide a representative to read the statement on their behalf.

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 **Wednesday 9 February 2022** in order to be guaranteed of a written response. In order to receive a verbal response, questions must be submitted no later than 5pm on **Friday 11 February 2022.**

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 13 - 14*)

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

7 **Planning Applications**

To consider and determine the following planning applications.

7a **PL/2021/08361 - 72 High Street, Heytesbury, Warminster** (*Pages 15 - 30*)

Change of use of existing annex to a standalone residential dwelling (Use Class C3).

7b **PL/2021/03253 - Lion and Fiddle, Trowbridge Road, Hilperton, Trowbridge, BA14 7QQ** (*Pages 31 - 66*)

Erection of two detached dwellings, garages and associated works.

7c **PL/2021/05520 - Unit 8, Atworth Business Park, Bath Road, Wiltshire, BA12 0AN** (*Pages 67 - 104*)

Change of use to light industrial (Class E), variation of condition 10 and 12 attached to permission 19/06790/FUL, extension and alteration to existing building, landscaping and associated works.

8 **Urgent Items**

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

Part II

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

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Western Area Planning Committee

MINUTES OF THE WESTERN AREA PLANNING COMMITTEE MEETING HELD ON 19 JANUARY 2022 AT COUNCIL CHAMBER - COUNTY HALL, BYTHESEA ROAD, TROWBRIDGE, BA14 8JN.

Present:

Cllr Christopher Newbury (Chairman), Cllr Bill Parks (Vice-Chairman), Cllr Trevor Carbin, Cllr Ernie Clark, Cllr Edward Kirk, Cllr Stewart Palmen, Cllr Antonio Piazza, Cllr Pip Ridout and Cllr Suzanne Wickham

1 **Apologies**

Apologies for absence were received from Councillor Andrew Davis, who had arranged for Councillor Mike Sankey to attend as a substitute. Additionally, apologies were received from Councillor David Vigar.

2 **Minutes of the Previous Meeting**

The minutes of the meeting held on 29 September 2021 were presented for consideration, and it was;

Resolved:

To approve and sign as a true and correct record of the minutes of the meeting held on 29 September 2021.

3 **Declarations of Interest**

Councillor Bill Parks, Councillor Christopher Newbury, Councillor Pip Ridout declared that they had been lobbied on the application.

4 **Chairman's Announcements**

The Chairman made those in attendance aware of the Covid regulations that were in place for the meeting.

5 **Public Participation**

No questions had been received from councillors or members of the public.

The Chairman welcomed all present. He then explained the rules of public participation and the procedure to be followed at the meeting.

6 **Planning Appeals and Updates**

The update report on planning appeals was received from Development Management Team Leader, Kenny Green with details provided of appeals dating back to September 2021. The Committee was notified that since the agenda for the meeting on 19 January 2022 being published, two appeals in Bradford on Avon and at Cowards Farm at Brokerswood had been determined and were dismissed.

Kenny Green also informed the committee that two appeals relating to land at Stokes Marsh Lane, Coulston and land to the west of Jasmine House, Hilperton Road had been allowed; and in the case of the Coulston appeal, the appellant's application for costs against the Council had been successful defended and was dismissed.

Councillor Ernie Clark clarified that regarding the appeal relating to the land west of Jasmine House, Hilperton Road, was now part of Paxcroft having moved out of the Hilperton division following the ward boundary changes.

Resolved:

To note the Planning Appeals Update Report for 19 January 2022.

7 **Planning Applications**

The Committee considered the following planning application:

8 **PL/2021/08361 - 72 High Street, Heytesbury, Warminster**

Public Participation

Niki Wagstaff spoke in objection of the application.

Zoe Wilkinson spoke in support of the application.

Christina Stewart spoke in support of the application.

David Bond spoke on behalf of Heytesbury, Knook and Imber Parish Council.

Senior Planning Officer, Steven Sims, presented the report which outlined the key planning considerations pertaining to the proposed change of use of an existing annex to a standalone residential dwelling (Use Class C3).

Details were provided of the site and issues raised by the proposals, including the principle of development, impact on heritage assets, impact on the amenity of neighbouring residents, and highway, parking and drainage issues.

Members of the Committee had the opportunity to ask technical questions regarding the application with members querying the size of the garage and whether it complied with the Council's adopted standards to count towards being a recognised vehicular parking space.

In response the planning officer clarified that the existing integral garage was smaller than the current adopted standards. The committee was advised that in

2016 when the annexe was granted planning permission, the integral garage was not identified as being necessary for car parking purposes on the basis that there was adequate external parking space at the front of the annexe for three motor vehicles and at the front of No.72 High Street. The garage space could nevertheless still be used for the storing and parking of small cars or motor bikes as an additional provision.

Members sought additional clarification over the existing parking requirements for the host property and questioned the officer on the number of bedrooms within No.72 High Street, and in addition, asked the officer if the integral garage within the annexe could be converted to habitable rooms.

In response, the officer confirmed that the garage could be modified to be used as additional ancillary accommodation and understood that the host property at No.72 High Street had 4 bedrooms as set out within the committee report.

Following further questions relating to the Council's car parking standards and the potential future internal changes to the annexe, Kenny Green reminded members that the annexe benefitted from extant planning permission and that the Council had approved the existing car parking provision and advised that it would not be reasonable to reconsider the car parking needs for the existing dwelling and the annexe.

Members were also advised that the car parking standards should be considered alongside a full appreciation of the on-site parking provision, any available unrestricted parking opportunities along the highway and that any application being considered for potential refusal on highway grounds must be tested against NPPF paragraph 111 which would require the decision maker to evidence that the proposal would result in unacceptable impacts on highway safety, or that the residual cumulative impacts on the road network would be severe.

The committee was reminded by officers that the application proposal would not result in any additional parking requirements and acknowledged that any additional displaced parking would not result in unacceptable impacts on highway safety or lead to severe residual cumulative harm. Members were also reminded that the Council's highway authority raised no objection to this application.

In response to public representations alleging that this was a retrospective application, the case officer advised members the proposal was not a retrospective application; and having visited the site recently, the committee was advised that the annex was currently used by the applicant's family.

Members raised concern about the amount of land provided for parking space at the front of the annexe off Mill Street, and questioned whether three cars could park side by side, with bins being identified as a potential obstruction. In response, Kenny Green advised members that such obstruction would only likely be temporary on bin collection days and it would be self-defeating action by the applicant and users of the subject property; and if it resulted in

insufficient space for car parking – causing car(s) to be displaced, members were advised that any displaced cars would have to park legally elsewhere, and with there being unrestricted parking provision available along the High Street, such concerns would not be reasonable grounds to refuse planning permission.

Members then queried whether it would be possible to condition the subject property to remain as a one-bedroom dwelling if it was to be approved. In response, officers advised that such a condition would need to be fully justified, and based on the information available at the committee meeting, members were advised that a substantive reason was not clear.

The previous planning condition placed on the original planning permission to create the annexe with integral garage to prevent it being used as a standalone dwelling was discussed. In response, the planning officer openly acknowledged that the wording of the condition and the reason was considered weak in planning terms. Clarity was also sought in terms of what was meant by the change in circumstances as advanced by the applicant, to which the planning officer responded by saying he understood that the circumstances of the applicant had now changed and therefore wanted the annex to be used as a separate dwelling, which in policy terms was considered acceptable for the reasons explained within the report.

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

The Local Unitary Member, Councillor Christopher Newbury, then spoke regarding the application. Key points included that this application was brought before the Committee for the purpose of transparency, to enable both the Parish Council and Applicant to hear and engage in the material considerations. Councillor Newbury voiced concern about the potential for the integral annex to be converted to another bedroom, and thus create a two-bedroom dwelling and moved that had a separate dwelling been applied for in 2016, it would have been considered somewhat differently, and would have ensured that any issues with parking had been dealt with; and securing the appropriate car parking provision. Councillor Newbury also brought the committee's attention to the narrow nature of Mill Street, with it being a single carriageway with no available on-street parking.

At the start of the debate a motion to move and accept the officer's recommendation was put forward by Councillor Trevor Carbin which was seconded by Councillor Stewart Palmen. Prior to the vote, Councillor Christopher Newbury invited Cllr Carbin to consider an amendment to the motion, to include a condition restricting the subject property to one-bedroom dwelling, which was not accepted by Councillor Carbin.

When put to the vote, the motion fell on a 3:6 majority, with one abstention.

Consequently, a motion to defer the application until after a committee site visit was put forward by Councillor Ernie Clark which was seconded by Councillor Newbury. An amendment to the motion from Councillor Suzanne Wickham to

request officers to secure further clarification of the number of bedrooms in both No.72 and the annexe and report this back to committee – which was an accepted amendment.

During the subsequent debate the 5-year housing land supply shortfall was discussed and whilst the present annex would not form part of the any existing housing provision, the committee was advised that if the application to create a 1-bed dwelling was approved, it would count towards addressing the housing supply deficit and provide entry level housing and meet local housing need.

In response, Cllr Mike Sankey informed the committee that he had attended a recent Children’s Select Committee meeting, and that there had been an agenda item regarding housing need and that there was a gap in the housing market for care leavers, and that he considered this application would potentially meet unfulfilled local need. Having searched online, Councillor Sankey also advised the committee that he was not able to find any one-bedroom properties for sale or rent in Heytesbury, and that the nearest available premises were in Warminster.

At the conclusion of the debate, it was,

Resolved:

That the application be deferred in order for the committee to conduct a site visit and to request that officers obtain and provide clarification regarding the number of bedrooms within No.72 High Street (the main dwelling) and the existing annexe of the subject property). It was also agreed that the site visit would take place on 16 February 2022, before the next Committee Meeting.

9 **Urgent Items**

There were no urgent items.

(Duration of meeting: 3.00pm – 4.25pm)

The Officer who has produced these minutes is Ben Fielding of Democratic Services, direct line 01225 718656, e-mail Benjamin.Fielding@wiltshire.gov.uk
Press enquiries to Communications, direct line (01225) 713114/713115

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**Wiltshire Council
Western Area Planning Committee
16th February 2022**

There were no Planning Appeals Received between 07/01/2022 and 04/02/2022

Planning Appeals Decided between 07/01/2022 and 04/02/2022

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Appeal Decision	Decision Date	Costs Awarded?
19/08146/VAR	Land At Trowbridge Lodge Park Trowbridge, BA14 6DP	Trowbridge	Section 73 application seeking permission for the further development of the land without complying with the condition imposed by permission 05/00042/FUL (granted by appeal decision APP/F3925/A/05/1177084 dated 5 July 2006) that no more than 133 caravans	DEL	Written Reps	Refuse	Allowed with Conditions	03/02/2022	None

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REPORT FOR THE WESTERN AREA PLANNING COMMITTEE

Date of Meeting	16 February 2022
Application Reference	PL/2021/08361
Site Address	72 HIGH STREET, HEYTESBURY, WARMINSTER
Proposal	Change of use of existing annex to a standalone residential dwelling (Use Class C3)
Applicant	Mr and Mrs D Stewart
Town / Parish Council	Heytesbury Imber & Knook Parish Council
Electoral Division	Wylde Valley – Cllr Christopher Newbury
Grid Ref	392865 - 142524
Type of Application	Full Planning Application
Case Officer	Steven Sims

Reason for the application being considered by Committee

This application was deferred at the 19 January 2022 Western Area Planning Committee to enable Councillors to attend a site visit and to assess the application proposal thereafter. Councillor Christopher Newbury requested that this application be called-in for the elected members to determine should officers be minded to approve planning permission for the proposed development and cited the following determinative matter:

‘To have regard to the particular circumstances advanced by the applicant in support of the development as approved.’

1. Purpose of Report

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

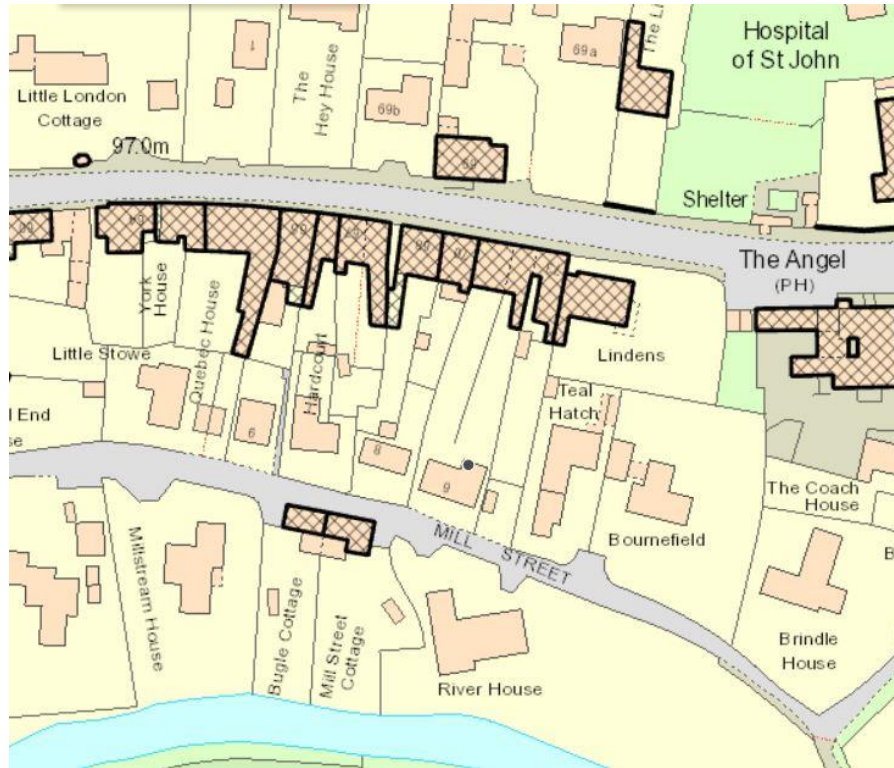
2. Report Summary

The key issues for consideration are:

- The principle of development
- Impact on heritage assets
- Impact on the amenity of neighbouring residents
- Highways/parking issues
- Drainage issues
- Other issues

3. Site Description

This application relates to an existing annex outbuilding that is located off Mill Street and is associated with and located to the rear of No. 72 High Street. The site is located within the village settlement limits of Heytesbury and within the Conservation Area. No. 72 High Street is a grade II listed 3-bedroom dwelling and as the following insert reveals, there are a number of listed buildings along the High Street as well as Mill Street Cottage and Bugle Cottage to the southwest, which are located along Mill Street.



Adjacent listed buildings shown as being hatched above.

The existing annex provides split level accommodation comprising an open plan kitchen, living and dining area, a study and WC on the upper ground floor with a timber decking leading to the shared garden. The lower ground floor comprises a shower room, bedroom and garage/store and a lobby. The floor area of the unit amounts to 87.6 sq. metres. Off road parking is provided directly to the south of the annex as shown below.



Existing front (south elevation)



Existing rear (north elevation)



Aerial photo of the application site

4. Planning History

20/03333/VAR – Removal of Conditions 2, 3, 4, 5, 6, 7, 8 and variation of Condition 9 of 16/09923/FUL, to refer to changes to materials and design – Approved

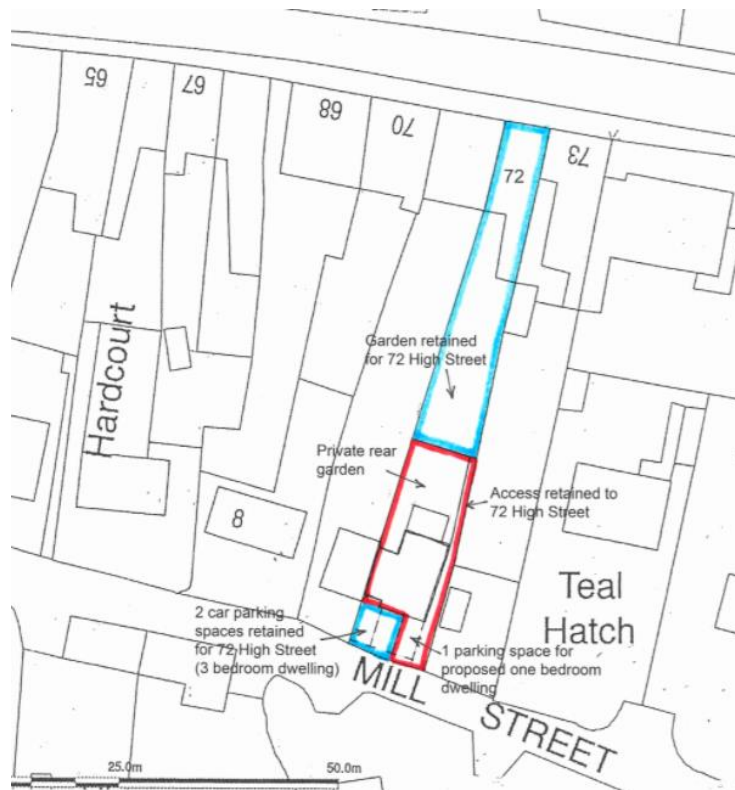
18/00952/ENF – Alleged not according to approved plans (16/09923/FUL) and unauthorised change of use – Case closed

16/09923/FUL – Demolition of existing garage and construction of a replacement garage with studio/annexe over (revised application (16/00188/FUL) – Approved

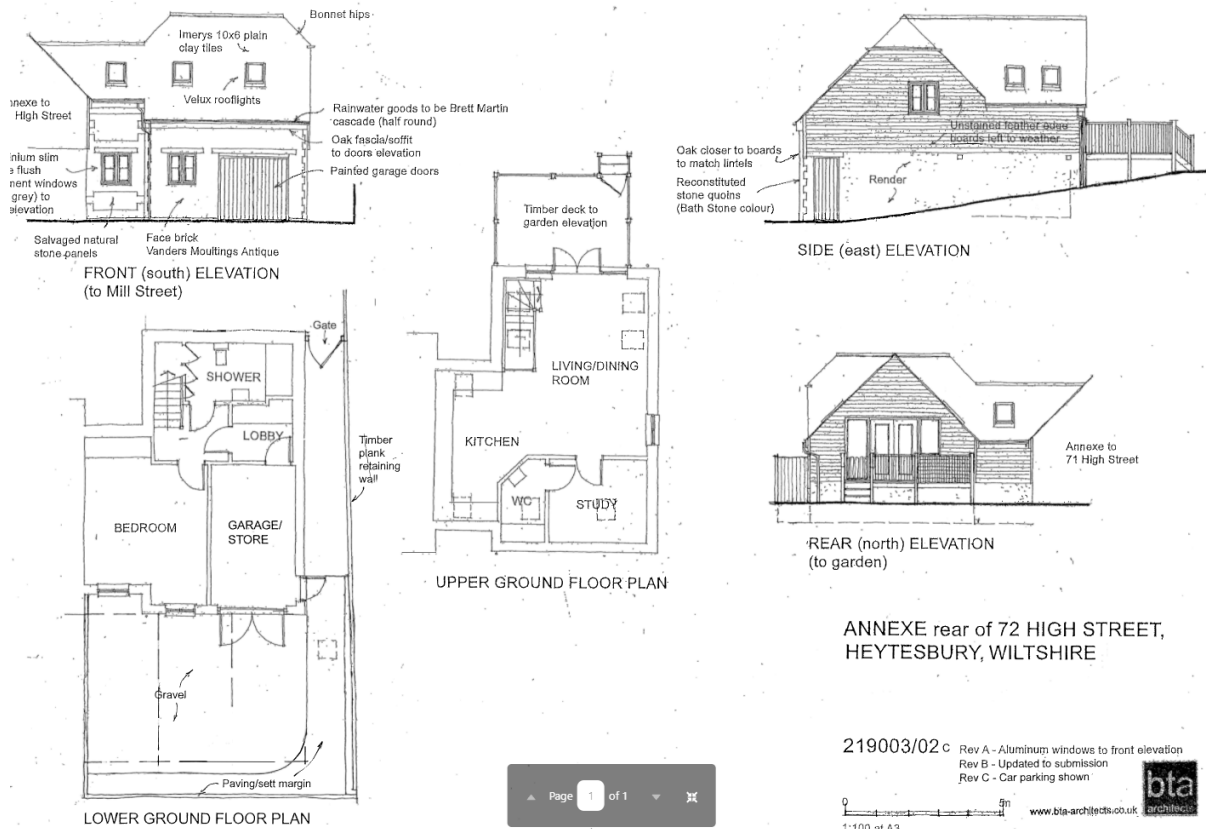
16/00188/FUL – Demolition of existing garage and construction of a replacement garage with studio/annex over – Refused

5. The Proposal

This is full application seeking permission for the change of use of an existing annex to become a separate residential dwelling. No internal or external alterations to the building are proposed. The building is as approved under application 20/03333/VAR. Three parking spaces are provided directly to the south of the property with access off Mill Street. One space would be allocated to the proposed new dwelling whilst 2 spaces would remain for the use by the residents of No. 72. The proposal allocates garden/amenity space to the north and to the rear of No. 72 High Street as shown below. The existing pedestrian access to the rear of No. 72 from Mill Street is located to the east side of the annex and would remain.



The proposed site with parking, amenity space and access



As Built / Approved Plans and Elevations

Based on the submitted annex plan as built (drg no. 219003/02c (above)), the existing garage/store measures 4.6 metres by 2.6 metres while each of the three off road parking spaces measures 2.4 metres by 4.8 metres. Three cars can be seen parked on site as demonstrated in the following photograph –



6. Local Planning Policy

Wiltshire Core Strategy (WCS) - Relevant policies include: Core Policy 1: Settlement Strategy; Core Policy 2: Delivery Strategy; Core Policy 31: Spatial Strategy – Warminster Community Area; Core Policy 41: Sustainable construction and low-carbon energy; Core Policy 57: Ensuring high quality design and place shaping; Core Policy 58: Ensuring conservation of the historic environment; Core Policy 60: Sustainable Transport; Core Policy 61: Transport and Development; Core Policy 64: Demand Management; Core Policy 67: Flood risk

Saved Policies for the West Wiltshire District Local Plan (1st Alteration) U1a - Foul Water Disposal

National Planning Policy Framework 2021 (The Framework) and Planning Practice Guidance (PPG)

Wiltshire Council's Local Transport Plan and Car Parking Strategy 2011- 2026 – in particular section 7 'Parking Standards'

Table 7.1 Minimum parking standards (allocated parking)

Bedrooms	Minimum spaces
1	1 space
2 to 3	2 spaces
4+	3 spaces
Visitor parking	0.2 spaces per dwelling (unallocated)

Sections, 16, 66 and 72 of the Planning (Listed building and Conservation Area) Act 1990

7. Summary of consultation responses

Heytebury Imber & Knook Parish Council: Objects based on the following:

The Parish Council object to the change of use on the basis that the original condition of planning permission agreed in December 2016 stated that:

"The garage with studio/annex hereby permitted shall remain as permanent ancillary accommodation to the principal dwelling 72 High Street Heytesbury, and shall be occupied by the same household, it shall not be sub divided, let or sold as separate accommodation". (condition 10 refers)

The Parish Council believe that condition 10 of the planning permission should continue to be observed.

Wiltshire Council Highways Officer: No objection subject to a condition. No highway objection was raised to the studio annexe (under application 16/09923/FUL) with the

creation of 3 car parking spaces. This proposal comes forward with no alteration to car parking, with the 3 spaces remaining on site, one for the proposed unit and two for 72 High Street. There is no highway objection subject to a condition securing the parking provision in perpetuity

Following a request made by the WAPC at the January meeting, the highways team reviewed their original comments and have the following additional comments to make – which reaffirms there being no objection to the proposed development.

Whilst the car parking arrangement in terms of dimensions is not an overly generous arrangement. I do not consider it to be an unacceptable arrangement in highway safety terms (please note paragraph 111 of the NPPF). When coming to this view I am also taking into account the nature and highway conditions of Mill Lane. It is important to consider that the proposed car parking arrangement is already in place, relating to consent of the annexe. This car parking arrangement can take place today, with three vehicles parked as proposed. I do not consider that there are reasonable or even defensible grounds if a highway objection is raised.

Wiltshire Council Conservation Officer: No objection. The site is to the rear of a listed cottage located in a roadside position at the centre of the village and conservation area. The proposal relates to a recently constructed garage/annexe at the far end of the plot which fronts the rear lane, Mill Lane.

The NPPF defines significance as the “*value of a heritage asset to this and future generations because of its heritage interest. The interest may be archaeological, architectural, artistic, or historic. Significance derives not only from a heritage asset’s physical presence, but also from its setting*”.

Historic England assesses significance in a similar manner, referring to evidential, historic, aesthetic, and communal values of a place. In this case the significance of the building lies largely with its historic fabric and architecture - its form, layout and use of materials which have significant aesthetic value and stand as a good example of a terraced cottage within a village location.

The proposal is for a change of use of an existing approved annex with no proposed external alterations. The current parking and access arrangement to the listed property would be maintained, and the existing property would retain a substantial rear garden. The annex fronts onto a separate street and is accessed and served entirely independently from the listed building – and as a result, the proposal would have no additional impact on either the setting of the listed building or the conservation area.

Summary & Conclusion: There would be no additional impact on the heritage assets. The requirements of current conservation legislation, policy and guidance would be entirely satisfied and there is therefore no objection to the approval of the application from the viewpoint of the historic built environment.

8. Publicity

The application was publicised by the display of a site notice and individually posted out notification letters sent to neighbouring/properties within close proximity of the site. As a result, the following comments were received from 6 third parties:

- Conditions were not properly discharged on the previous application and criticisms expressed about lack of enforcement action.
- No checks by the planning authorities were made either during or after construction.
- The annex was quickly turned into a dwelling with its own new address clearly displayed on its frontage resulting in a clear breach of planning control
- Mill Street is a very narrow lane servicing both the main frontage of houses and also back access and it is not feasible to have another permanent residence in it with parking for up to 3 cars
- The annex should not be subdivided, let or sold as separate accommodation
- There are flooding issues
- Congestion along Mill Street/unacceptable increase in traffic
- The premises have been in full residential use since 2018
- There are fire regulation issues
- There is insufficient space to park 3 cars,
- The access/egress driveway is inappropriate given the width of Mill Street
- There are surface water drainage issues
- The bin storage area is shared with No. 72
- The building can be seen from Mill Street
- Pedestrian access to No. 72 would be via rear garden of No. 73
- Shared water supply /septic tank concerns
- The property cannot be expected to accommodate up to 6 residents
- Lack of heritage details to support the application
- The garage facility is too small for a car
- Servicing/access issues regarding oil tank to rear of No. 72
- The lack of a 5-year housing supply is not relevant
- Poor positioning and display of the site notice

9. Planning Considerations

The principle of development - Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require that the determination of planning applications must be made in accordance with the Development Plan unless material considerations indicate otherwise. In this case, the Wiltshire Core Strategy, including those policies of the West Wiltshire District Plan that continue to be saved in the WCS form the relevant development plan for the area.

The application site is located within the designated large village of Heystebury. Core Policy 2 sets out the delivery strategy for the Council and advises that within the limits of development, as defined on the policies map, there is a presumption in favour of sustainable development at the Principal Settlements, Market Towns, Local Service Centres and Large Villages. Furthermore, it sets out that within Large Villages, a limited

level of additional residential development will be supported by the adopted Wiltshire Core Strategy (WCS) in terms of suitable windfall proposals and for up to 10 houses on small sites.

Five Year Housing Land Supply - As confirmed by two recent planning appeals, pursuant to land at Green Farm, Chippenham Road, Lyneham (appeal ref APP/Y3940/W/20/3253204 and Land to the south of Chilvester Hill, Calne (appeal ref APP/Y3940/W/21/3275477), the Council cannot currently demonstrate a 5-year supply of deliverable housing land – with the north and west housing market standing at 4.29 years, which is a moderate shortfall. With this recognition, the tilted balance flowing from paragraph 11d) ii of the National Planning Policy Framework (NPPF) is engaged. As such the local plan policies which restrict new housing provision must be treated as being out of date, but this does not mean that they carry no weight, since the development plan remains the starting point for my decision making. When the tilted balance is engaged, the NPPF indicates that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole.

When LPA's have a housing supply deficit, paragraph 11 of the NPPF sets a presumption in favour of housing delivery unless protected areas or assets of particular importance would be demonstrably harmed by the development proposal and would provide a robust and clear reason for refusing the application. Officers maintain that this conversion proposal would lead to no demonstrable policy harm and the windfall residential provision of one 1-bed dwelling is fully supported by the NPPF and the WCS.

WCS strategic policies CP1 and CP2 cannot be given 'full weight' whilst NPPF para 11 is engaged, but these policies can still be given substantial weight in the planning balance as the strategic policies remain of critical importance in terms of directing appropriate, sustainable development to the right locations in accordance with the Framework. In this case, Heytesbury is a designated 'Large' village in policy terms, and the proposal is considered acceptable. The scheme would result in delivering one more dwelling at a sustainable location; and in recognition that there are no substantive planning reasons to counter the titled balance engaged by the NPPF, this application is supported by officers, subject to conditions.

Impact on Heritage Assets - NPPF paragraph 199 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

The Planning (Listed Building and Conservation Areas) Act 1990. Section 66 requires that special regard be given to the desirability of preserving listed buildings and their settings. Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 also requires the Council to pay special attention to the desirability of preserving or enhancing the character or appearance of designated Conservation Areas.

The Council's Core Strategy Policy CP58 'Ensuring the conservation of the historic environment' requires that "*designated heritage assets and their settings will be conserved, and where appropriate enhanced, in a manner appropriate to their significance*". The Council's Core Strategy CP 57: Ensuring high quality design requires a high quality of design in all new developments, noting that this should respond to the value of the historic environment by relating positively to the "*existing pattern of development*".

The site is located within the Heytesbury Conservation Area and No. 72 High Street, is a grade II listed building, and as noted at the start of this report, officers are appreciative of the fact that there are numerous nearby listed buildings. However, in this case, there are no external alterations proposed and in recognition that the existing building benefits from planning permission, there are no reasonable or substantive heritage-based grounds to refuse this application.

Mill Street is a narrow road that runs parallel with High Street and the built form/character of Mill Street is set by a mix of single and two storey detached, semi-detached and terraced properties. Sitting next to these properties, along the northern side of Mill Street, are garages associated with properties fronting High Street. The proposed development is for the change of use of an annex dwelling to a separate residential dwelling (without alteration) and there can be no reasoned opposition now to the impact the building has on the street scene or special protected character of the immediate area.



Photo of Mill Street looking north towards listed cottages on left

The NPPF defines significance as the "*value of a heritage asset to this and future generations because of its heritage interest. The interest may be archaeological,*

architectural, artistic, or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting."

Historic England assesses significance in a similar manner, referring to evidential, historic, aesthetic, and communal values of a place. In this case the significance of the building lies largely with its historic fabric and architecture - its form, layout and use of materials which have significant aesthetic value and stand as a good example of a terraced cottage within a village location. The proposal is for the change of use of the existing approved annex. There would be no internal or external alterations to the building. The current parking and access arrangement to the listed property would be maintained, as would a large part of its rear garden. The annex fronts onto a separate street and is accessed and served entirely independently from the listed building, and as a result, the proposal would have no additional impact on either the setting of the listed building or the Conservation Area.

It is therefore considered there would be no additional impact on the Conservation Area or adjacent listed buildings including the host property at No. 72 and the development would cause no harm to the heritage assets.

The proposed development therefore complies with Core Policies 57 and 58 of the WCS and the advice contained within the Framework.

Impact on the Amenity of Neighbouring Residents - Core Policy 57 of the WCS requires 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 subject property is located within a residential area with extant permission for vehicular access off Mil Street. The proposed change of use proposes no alterations either internally or externally. As such, whether the building is used as an annexe or standalone dwelling, it would have no substantive adverse impacts on neighbouring residents in terms of loss of light or overshadowing, loss of privacy or overlooking – over and above what already exists.

Adequate off road parking space would be retained for the subject building and No.72 High Street. The use of the parking spaces would not result in substantive harm to adjacent residents. Officers raise no concern about the proposed amenity/garden space provision for future occupiers of the converted annexe and the garden that would remain for No.72 High Street.

The proposed development therefore complies with Core Policy 57 of the WCS and the NPPF.

Highways/Parking Issues - Paragraph 110 of the NPPF states that in assessing specific applications for development, it should be ensured that safe and suitable access to a site

can be achieved for all users. Paragraph 111 furthermore states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety. Core Policy 64 of the WCS sets out to manage the demand for parking and sets residential parking standards based on minimum parking standards.

The current 3 off road parking spaces were approved under application 20/03333/VAR and based on the as built submitted annex plan (Drawing Mo. 219003/02c), the existing garage/store measures 4.6 metres by 2.6 metres (which constitutes as a 1.4m x 03m shortfall when tested against the current Parking standards for internal garage dimensions for a car). Each of the three off road parking spaces measure 2.4 metres by 4.8 metres – which satisfies the parking standard requirements.

The integral garage may not satisfy the current Council's parking space requirements for a car, it nevertheless could accommodate a small car or motor bike. However, it should be appreciated that the proposed one-bedroom dwelling would still have access to and use of one off-road parking space at the front of the subject property in addition to two car parking spaces for No.72.

The case officer can confirm that the host dwelling at No.72 has 3 bedrooms (not four as previously reported), and as such, the property complies with current council parking standards. In addition, since there is unrestricted parking available along the High Street for the residents of No. 72, should they so wish, they could park on the High Street rather than the allotted parking space off Mill Lane.

It is recognised that Mill Lane is narrow and passing opportunities for two vehicles approaching each other require some reversing maneuvering, however it is important to appreciate that the number vehicle movements associated with the existing annex and a 1-bed dwelling would be very similar and no substantive highway-based reason for refusal would be defensible on appeal.

Officers noted the concerns raised by councilors during the committee meeting of 19 January with regard to the potential conversion of rooms within the existing annex to create additional bedrooms and if this were to happen, there would potential be an under provision of parking space. In recognition of this, a planning condition is now recommended to remove permitted development rights to prevent the owner from converting the garage/store (as shown on Drawing No. 219003/02c) to a habitable room should be imposed on any approval. It should be noted that such a planning condition would require the owner/applicant to apply for planning permission for any future internal conversion plans of the garage/store to a habitable room and that such an application would be tested on its own merits and the requisite and prevailing policies that apply at the time.

Drainage Matters - The change of use would not impact existing drainage arrangements which were originally dealt with under application 16/09923/FUL when the annex/garage was first approved.

Other Issues - Several representations have commented on the planning enforcement processes followed in the past for this site. In response to the reported criticisms, it is important to stress that in accordance with the Council's adopted planning enforcement protocols and best practice, enforcement related complaints are held as confidential. The planning enforcement officer did respond to raised complaints about planning breaches in the past and these were investigated and resulted in a revised variation application which is duly cited within this report.

There are no outstanding planning enforcement matters that require officer consideration or reporting for the purposes of this application.

In response to other matters raised, there is sufficient space at the front of the property to store bins without compromising highway safety. There are no known fire safety regulation concerns to report. Access to services such as water/electricity, whether shared or not, is not a material planning concern.

RECOMMENDATION: APPROVE: subject to 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:

Site location and block plan scale 1:1250 and 1:500
Plans and elevations scale 1:100 drg no. 219003/02c

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

3. The parking spaces shown on the approved plans (Site Block Plan) shall be maintained for parking purposes only thereafter.

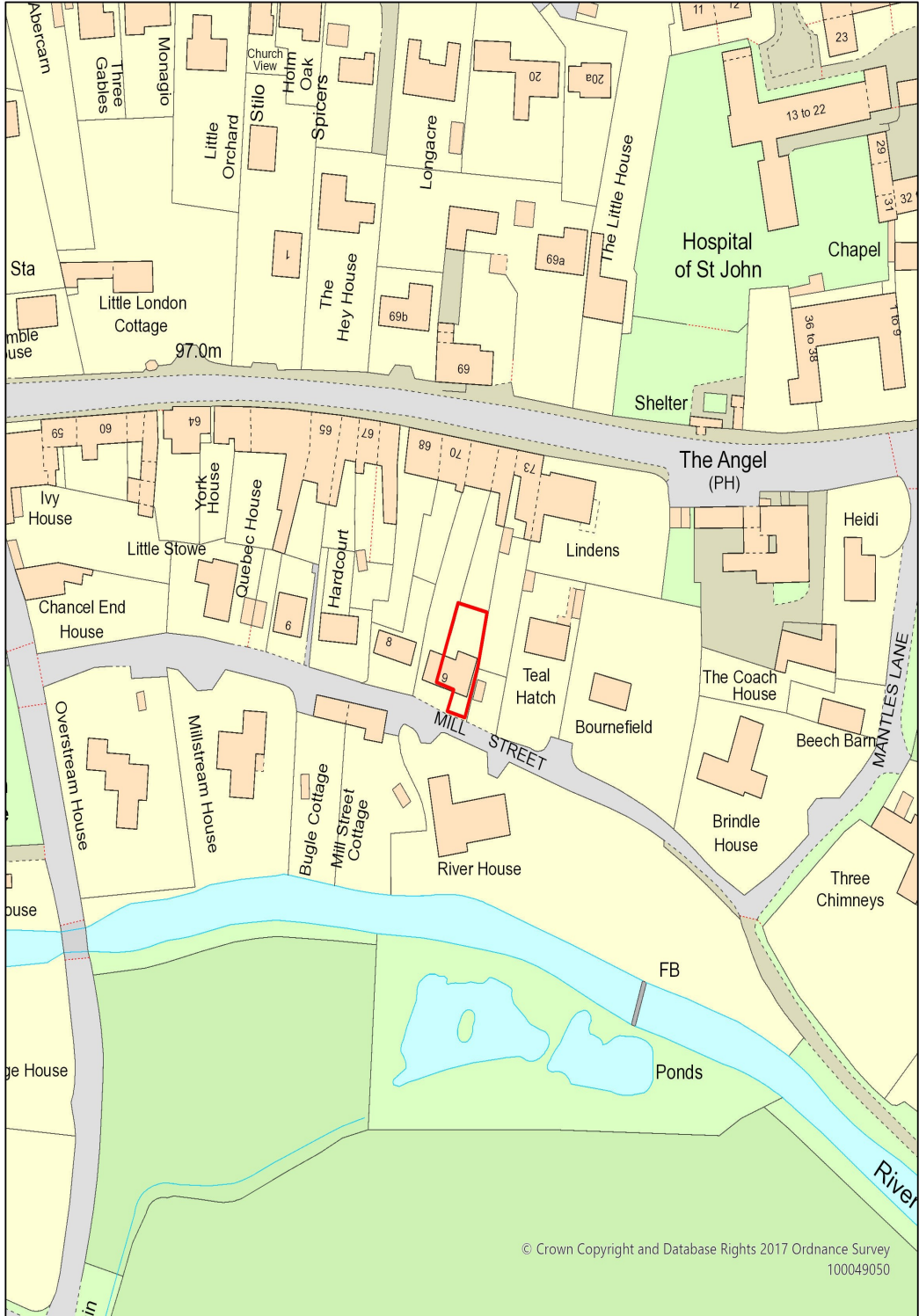
REASON: In the interests of highway safety.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.3) (England) Order 2020 (or any Order revoking or re-enacting or amending that Order with or without modification), the integral garage/store within the floor plan of the subject property shall not be converted to habitable accommodation.

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

Informatives

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



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Date of Meeting	16 February 2022
Application Number	PL/2021/03253
Site Address	Lion and Fiddle, Trowbridge Road, Hilperton, Trowbridge, BA14 7QQ
Proposal	Erection of two detached dwellings, garages and associated works
Applicant	Mrs J Singer
Town/Parish Council	HILPERTON
Electoral Division	Hilperton – Ward Member Cllr Ernie Clark
Grid Ref	ST873589
Type of application	FULL PLANNING
Case Officer	Verity Giles-Franklin

Reason for the application being considered by Committee: Cllr Kirk has called this application in for members of the Western Area Planning Committee to determine at the request of Cllr Clark (who lives adjacent to the application site and is an interested party) if officers are minded to recommend the application for approval, so that members can consider: the scale of the proposed development; the visual impact; the relationship to adjoining properties; the design; the environmental and highway impacts; the car parking provision including a loss of car parking spaces at the Lion and Fiddle public house; and concerns about overdevelopment of the site.

1. Purpose of Report

The purpose of this 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 should be approved subject to conditions and requiring the applicant/landowners to enter into a Section 106 (S106) legal agreement.

2. Report Summary

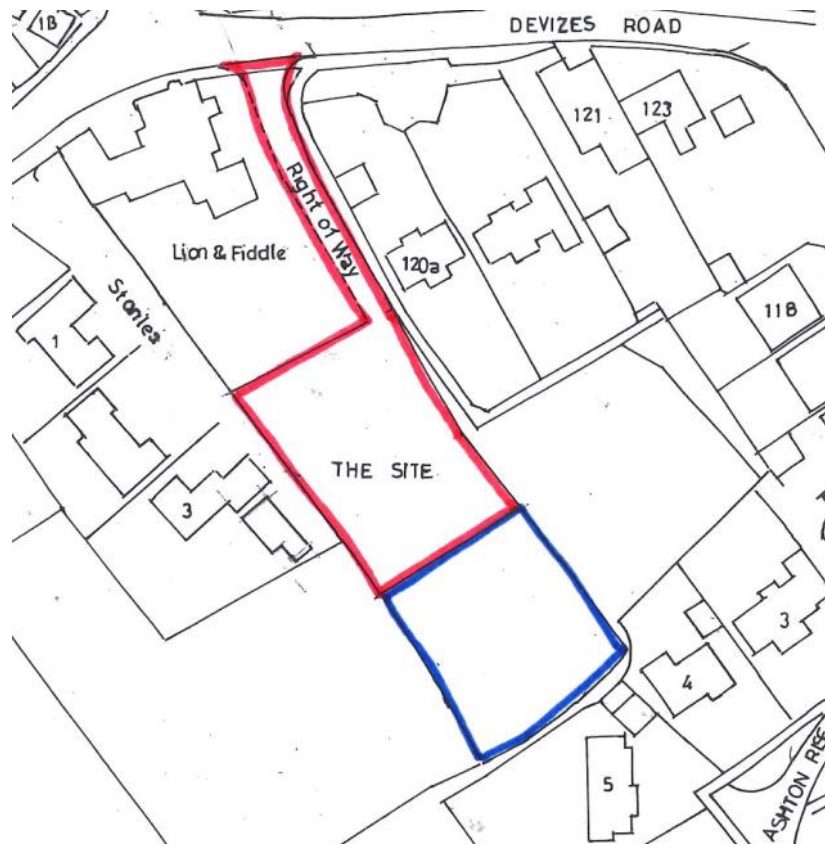
This report appraises the principle of development, the impacts the development would have on the character of the area and designated heritage assets, as well as the impacts on neighbouring amenity for both existing and future occupiers, ecology interests and highway safety.

Hilperton Parish Council objects to the application, the details of which are provided within section 8 of this report.

Nineteen public representations have also been received, which are summarised within section 9 of this report.

3. Site Description

This proposal relates to a parcel of land located to the rear of the Lion and Fiddle public house in Hilperton, as illustrated by the extracts provided on the following page as taken from the submitted location plan and proposed block plan:



Extract of Location Plan



Extract of Proposed Block Plan

The application site is predominately grass with part of the site covered in hardstanding. The site is fenced off from the existing public house car park with the fence illustrated below. The site has well-established landscape planting along the southern, eastern and western boundaries that are shared with neighbouring residential properties to the west and east. The trees to the south and along the eastern and western boundaries are protected by a Tree Preservation Order reference: W/13/00005/MIXED. Two site photographs taken by the case officer are provided below to illustrate the site and its boundary character.



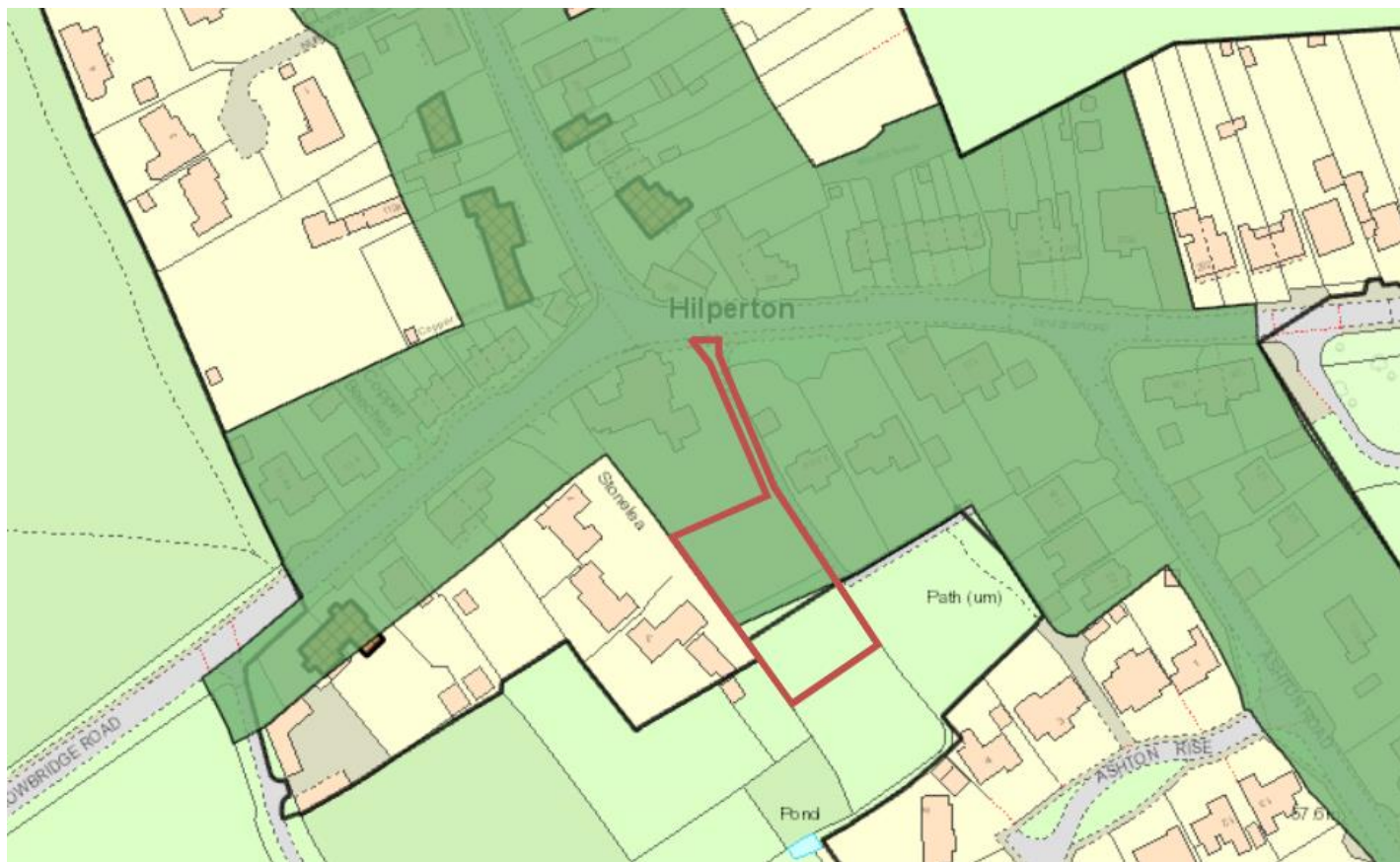
View taken from within the application site facing west, with the existing fencing visible to the right-hand side of the image



View taken from the public right of way illustrating the existing fence which separates the application site from the car park, with an area of hardstanding visible immediately beyond the existing gated entrance

As illustrated in the following insert, part of the application site is confirmed as being located within the designated Hilperton Conservation Area (which is highlighted by a washed over green shading). The insert also confirms the designated village settlement limits (defined by a black line), which reveals that part of the application site falls outside of the settlement limits for the village.

A number of Grade II listed buildings (shown as hatched properties below) are in relatively close proximity to the application site, including Willow Cottage (No. 117 Trowbridge Road) to the south-west, Woodcote (No. 112 Church Street) to the north-west, and Nos 209 and 210 Church Street to the north. To the east of the application site, a public right of way footpath (PRoW) reference HILP30 runs parallel with part of the application site.



4. Planning History

The following planning history is of relevance to this application:

W/13/00970/FUL - Erection of 2 no. detached dwellings in the grounds of existing public house. Extensions and alterations to public house to provide additional restaurant space and an additional 4 no. letting rooms - Withdrawn

The above application sought planning permission to extend the public house and to erect two dwellings, but the above application was withdrawn by the applicant prior to a decision being made by the Council.

14/06237/FUL - Extensions and alterations to public house to create 4 new letting rooms and the construction of two dwellings within the pub grounds (constituting a resubmission of W/13/00970/FUL) - Refused on the following grounds:

1. Plot 2 would be entirely located in the open countryside outside the village policy limits defined for

Hilperton in the West Wiltshire District Plan 1st Alteration 2004. In the light of the absence of any special justification supplied by the applicant, the proposal would conflict with Policies H17 and H19 of the District Plan.

(Note: The decision for the above application was issued on the same date that the elected members of Wiltshire Council were formally invited to adopt the Core Strategy which went through a detailed a thorough public examination, which closed in December 2014.

The decision also noted that upon adopting the Core Strategy as recommended; the above cited WWDP policies would be replaced by Policies CP1, CP2 and CP48).

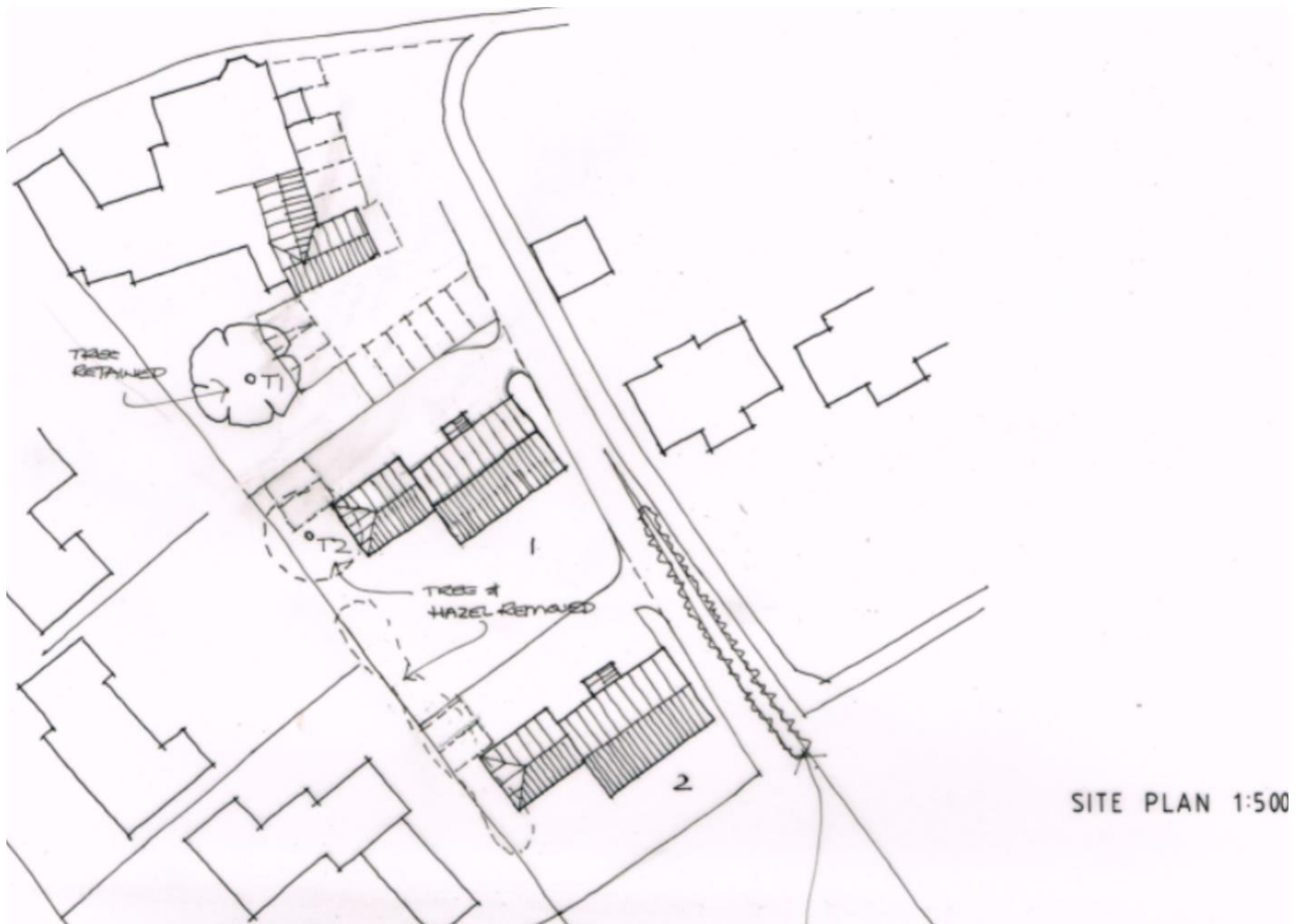
2. Plot 2 conflicts with the Delivery Strategy as outlined in Policies CP1, CP2 and CP29 of the Wiltshire Core Strategy, which seeks to plan for sustainable development throughout Wiltshire and to deliver the identified housing needs in the community areas within the defined Limits of Development. Given the advanced status of the Wiltshire Core Strategy, residential development found to be in conflict with the delivery strategy should come forward as part of a Site Allocations DPD and/or a Neighbourhood Plan, a strategy supported by both the Core Strategy Inspector and the Secretary of State in determining the appeal at Park Lane, Malmesbury (appeal reference number APP/Y3940/A/13/2200503). This ad hoc proposed incursion into open countryside beyond the Limits of Development by Plot 2 has not been brought through this process and constitutes an unsustainable form of development which would undermine the aforesaid delivery strategy. The Delivery Strategy required by Policies CP1, CP2 and CP29 is the properly planned method of establishing the most sustainable sites for meeting the housing needs of the Trowbridge Community Area and Hilperton village.

3. The application fails to fully consider the impact the development would have upon TPO's and other trees on the site. The increase in hardstanding for the car park and the two dwellings would have an unacceptable impact on trees which are shown to be retained contrary to West Wiltshire District Plan 1st Alteration 2004 Policy C32 and Wiltshire Core Strategy Policy CP57.

(Note: This decision was issued on the same date that the elected members of Wiltshire Council were formally invited to adopt the Core Strategy which went through a detailed and thorough public examination, which closed in December 2014; and upon adopting the Core Strategy, the above cited WWDP policy C32 would be replaced CP57).

4. The application is materially deficient through the lack of an ecological / protected species survey. Without a thorough survey of the site, its boundaries and the existing building which would be the subject of conversion and alterations, the Council cannot make a full and proper assessment in terms of the application and its impact to protected species and habitat. The application therefore conflicts with Emerging Core Strategy CP50 and the NPPF.

The refused application proposed extensions and alterations to the public house, plus the construction of two dwellings to the rear of the public house, as illustrated by the extract of the refused site plan provided on the following page:



SITE PLAN 1:500

5. The Proposal

This application seeks planning permission for the erection of two detached dwellings that would be for the open market with each having 4-bedrooms, with attached garages and a home office above. Each dwelling would also have an area of on-site car parking to the front of the garages for two vehicles.

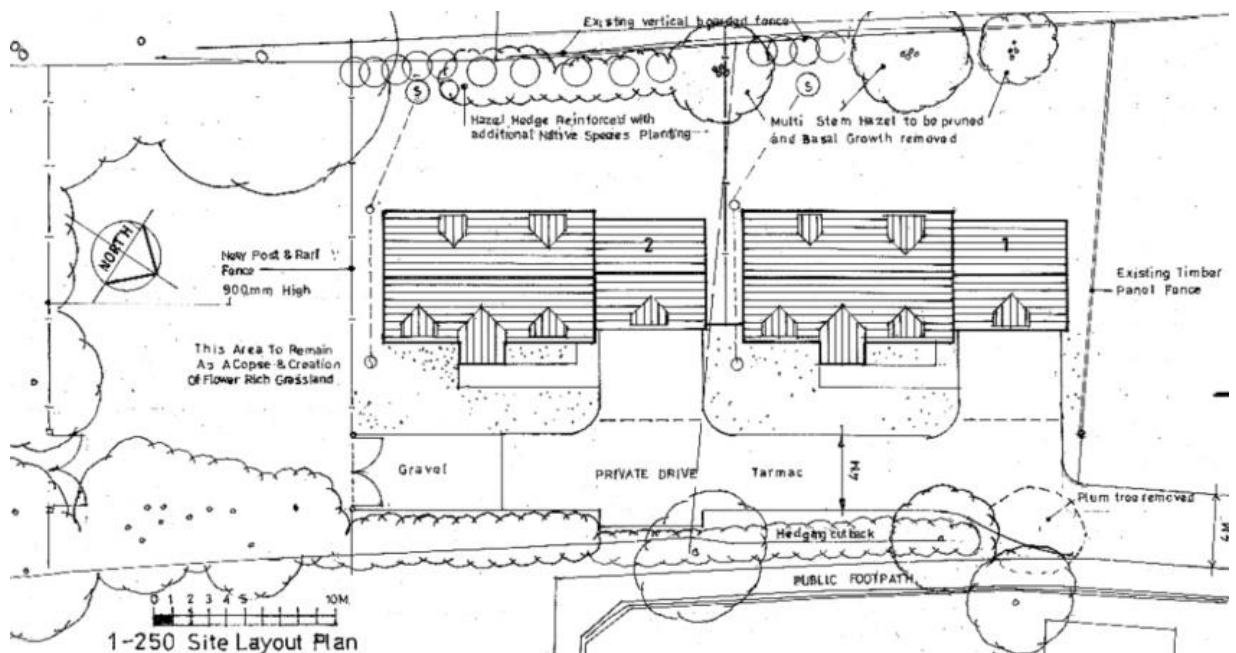
The site would be served by an existing vehicular access off Devizes Road and motorists would traverse through the existing public house car park.

Through the assessment of this application, officers requested evidence from the applicant's agent to prove a legal right of access over this land, which has been confirmed and is illustrated in the following Land Registry extract, which was attached to the transfer of sale document.

The following extract also confirms that the proprietors of the public house would benefit from 29 dedicated car parking spaces which when tested against the Council's car parking strategy and following a consultation with the Council's highways authority, is considered an appropriate provision of car parking for the public house.



An extract of the proposed site layout plan has been provided on the following page, which illustrates the proposed siting of the dwellings, the proposed wildlife area to the side of Plot 2 and the proposed private driveway:



The proposed dwellings would be completed in natural stone under clay tiled roofs with dark grey uPVC windows and doors. The walls of the proposed attached garages would be completed in larch cladding on all three elevations. The dwellings would comprise of pitch roofs, each with a two-storey projecting gable entranceway on the north-east (front) elevation containing a large area of glazing. Pitch roof dormer windows are proposed on both the front and rear elevations of the dwellings, with attached garages to the side, also under pitch roofs but of a subservient design. The proposed garages would contain a dormer window on the north-east (front) elevation but with no first-floor openings to the rear (south-west), as illustrated by the below extracts taken from the submitted proposed elevations drawing:

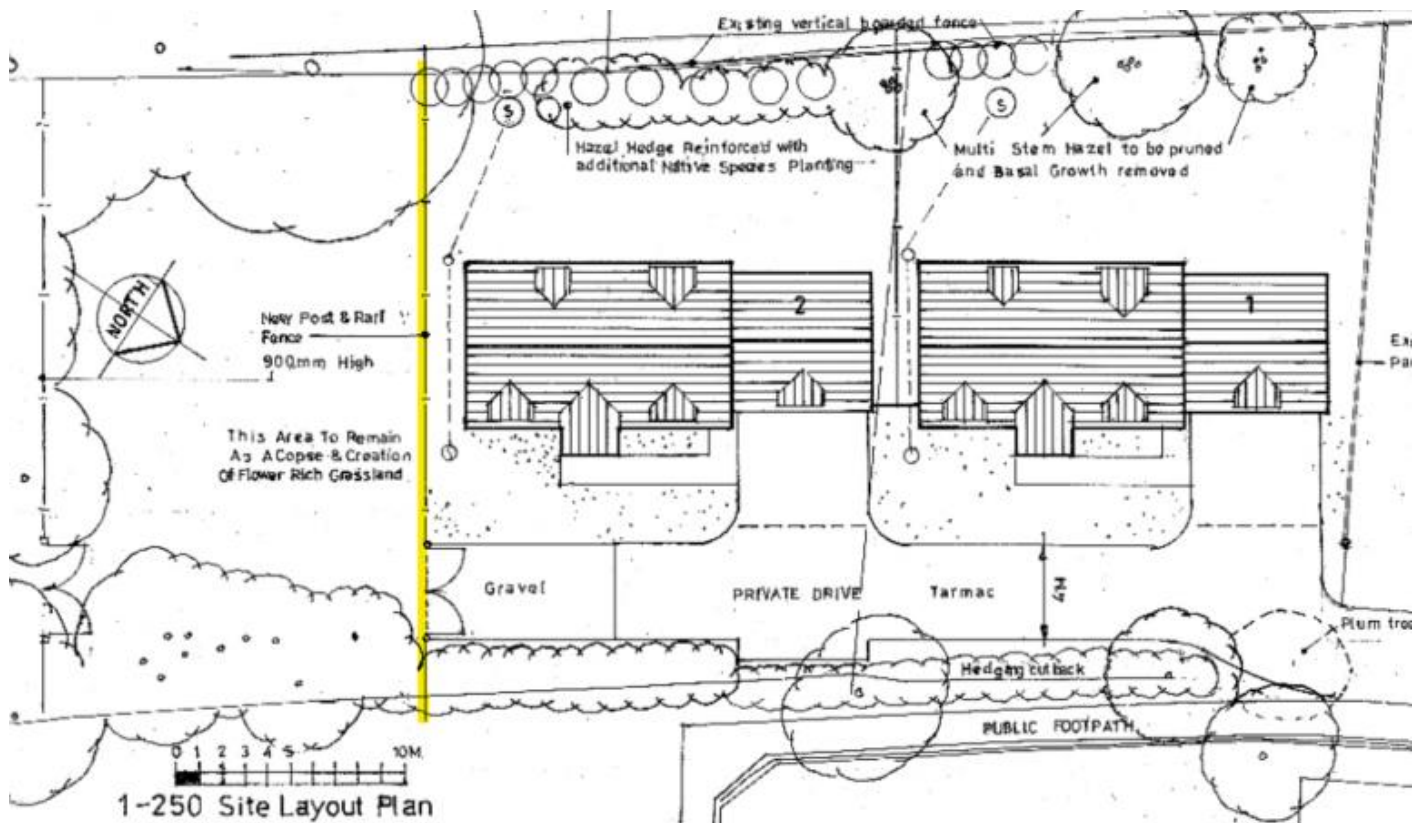


One fruit tree (a plum tree) would be removed adjacent to the HILP30 public right of way footway in order to accommodate the creation of a private driveway to serve these two dwellings. Officers have however negotiated net biodiversity gain for this application in accordance with NPPF paragraphs 174 and 180.

Biodiversity enhancement is also required on this site in order for the proposed development to comply with the requirements of the TBMS and as such the southern part of the site would be fenced off with post and rail fencing to a height of 900mm and would be retained as a wildlife flower rich grassland area.

This habitat creation would be secured by a s106 legal agreement to ensure that it remains undeveloped and to support ecology interests.

An extract of the revised site layout plan is provided below, with the yellow line depicting the line of fencing that would separate the proposed development and the wildlife grassland area:



6. Planning Policy

The adopted Wiltshire Core Strategy (WCS) 2015, namely core policies (CP): CP1 - Settlement Strategy; CP2 - Delivery Strategy; CP29 - Spatial Strategy: Trowbridge Community Area; CP50 - Biodiversity and Geodiversity; CP57 - Ensuring High Quality Design and Place Shaping; CP58 - Ensuring the Conservation of the Historic Environment; CP60 - Sustainable Transport; CP61 - Transport and Development; CP64 - Demand Management; and CP67 - Flood Risk

Trowbridge Bat Mitigation Strategy (TBMS) Supplementary Planning Document (SPD), adopted February 2020

The 'made' Hilperton Neighbourhood Development Plan 2017 - 2026
Hilperton Village Design Statement

Wiltshire Local Transport Plan and Car Parking Strategy 2011-2026

Wiltshire Community Infrastructure Levy: Planning Obligations Supplementary Planning Document;
Wiltshire's Community Infrastructure Levy - Charging Schedule; Wiltshire Infrastructure Funding Statement

National Planning Policy Framework (NPPF) 2021

Planning Practice Guidance (PPG)

Planning (Listed Buildings and Conservation Areas) Act 1990

7. Summary of Consultation Responses

Hilperton Parish Council: Objects for the following reasons:

- a) *Overdevelopment of the site*
- b) *The loss of a number of parking spaces at the Lion and Fiddle which would either result in vehicles parking along the roadside at a busy road junction, or much of the pub garden being given up to compensate for the loss of on-site parking spaces, resulting in the loss of public amenity space at a time when outside gatherings are being encouraged*

Wiltshire Council Arboricultural Officer: No objection subject to planning conditions being imposed relating to a 'no dig' requirement for the formation of the proposed driveway and to ensure that no materials are stored near the trees and the roots. A condition requiring the submission of a Arboricultural Method Statement (AMS) is also recommended to protect the on-site / boundary trees during the construction phase of the development.

Wiltshire Council Ecology: Following the submission of ecology surveys in September and October 2021, and the completion of the associated Appropriate Assessment (AA) which has been signed off by Natural England, no objections are raised subject to conditions and the applicant entering into a s106 legal agreement to secure the habitat mitigation scheme and agreement to pay developer contributions towards mitigation pursuant to recreational pressures on the nearby woodland areas. [The applicant has confirmed that they would be willing to pay the necessary financial contributions].

Wiltshire Council Highways Department: No objection - *"the Lion and Fiddle Public House is in separate ownership to the development land, therefore the number of car parking spaces to be provided for the pub is irrelevant. Therefore, on the basis that the parking and turning is in accordance with Wiltshire Council's Parking Standards and an area is provided for refuse collection, I raise no highway objection"*.

The Land Registry documents that have been submitted by the applicant, confirm the legal right of access they have over the car park associated with the Lion and Fiddle public house to the parcel of land to the south of the car park and also illustrate the car parking arrangement for the public house that was agreed at the time of sale in 2016, which has been reflected on the submitted block plan. These documents confirm that 29 on-site car parking spaces would be available to serve the public house which would exceed the maximum parking standards for food and drink uses as detailed within the Council's adopted Car Parking Strategy.

Wiltshire Council Rights of Way: No objection subject to an informative/condition being imposed on any planning permission being granted to ensure the PRow footpath remains open and available during construction.

8. Publicity

The Hilperton Electoral Division Member: The Parish Council has concerns about the loss of parking spaces at the Lion and Fiddle public house, “*which will undoubtedly result in vehicles parking along the roadside at a busy road junction; or much of the pub garden given up to compensate for the loss of on-site parking spaces, which will result in the loss of public amenity space*”.

Nineteen representations (including multiple objections from the same residents) were received with 6 representations submitting a comment and 13 raising objections to the proposed development. The following summarised objections and concerns reflect the submitted representations:

- Flora and fauna should be preserved and enhanced
- Evidence of badger activity and foxes
- Intrude on green space
- Green space adjacent to the proposed development should be left to nature
- Access for dwellings close to boundary and erodes hedgerow
- Loss of car parking for the Lion and Fiddle
- Rearrangement of the car parking for the Lion and Fiddle
- Loss of part of garden for Lion and Fiddle
- Impact on business at Lion and Fiddle
- Public Right of Way should be protected
- New access to serve dwellings unacceptable
- Increase in car parking on nearby streets resulting in an increase in noise and nuisance for local residents
- Pedestrian safety with increased on-street car parking
- Increased traffic
- Lead to further congestion on Devizes Road and nearby roads
- Benefit of proposed housing would not outweigh adverse impact on the immediate area
- No public benefit from proposal
- Site is location outside settlement boundary for Hilperton
- New residential developments have already been taken place in Hilperton and therefore there is no need for more housing
- Proposed dwellings would either preserve or enhance the character or appearance of the conservation area
- Proposal contrary to ‘made’ Hilperton Neighbourhood Plan
- Privacy concerns
- Overlooking existing dwellings
- Increase in noise and disturbance to existing residents
- Cramped/overdevelopment
- Proposed gardens small
- PD rights should be removed to prevent additional windows in south-west elevations
- Soakaways would be close to existing landscape planting foliage bounding the properties along Stonelea that could cause flooding
- The proposed housing is not considered to respond to local need

9. Planning Considerations

Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require that the determination of planning applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise. In this case, the Wiltshire Core Strategy, including the relevant policies from the West Wiltshire District Plan that continue to be saved in the WCS, form the relevant development plan for the area.

9.1 Principle of Development: The application site is located in part, within the large village of Hilpertion. Core Policy 2 sets out the delivery strategy for the Council and advises that within the limits of development, as defined on the policies map, there is a presumption in favour of sustainable development at the Principal Settlements, Market Towns, Local Service Centres and Large Villages, like Hilpertion – where a limited level of up to ten homes (subject to site circumstances) is supported by the adopted Wiltshire Core Strategy (WCS).

9.1.1 It is also important to acknowledge that two recent planning appeals have confirmed that the council cannot currently demonstrate a 5-year supply of deliverable housing land when tested against Local Housing Need (LHN) for Wiltshire (which became a requirement after 20 January 2020 when the adopted WCS became 5 years old), with the north and west housing market area having about 4.29 years supply, which is considered a moderate shortfall.

9.1.2 With this recognition, the tilted balance flowing from paragraph 11d) ii of the National Planning Policy Framework (NPPF) is engaged. This means that the local plan policies which restrict new housing provision must be treated as being ‘out of date’, but it does not mean that they carry no weight, since the development plan remains the starting point for any decision making. However, when the tilted balance is engaged, the NPPF indicates that planning permission should be granted for new housing unless:

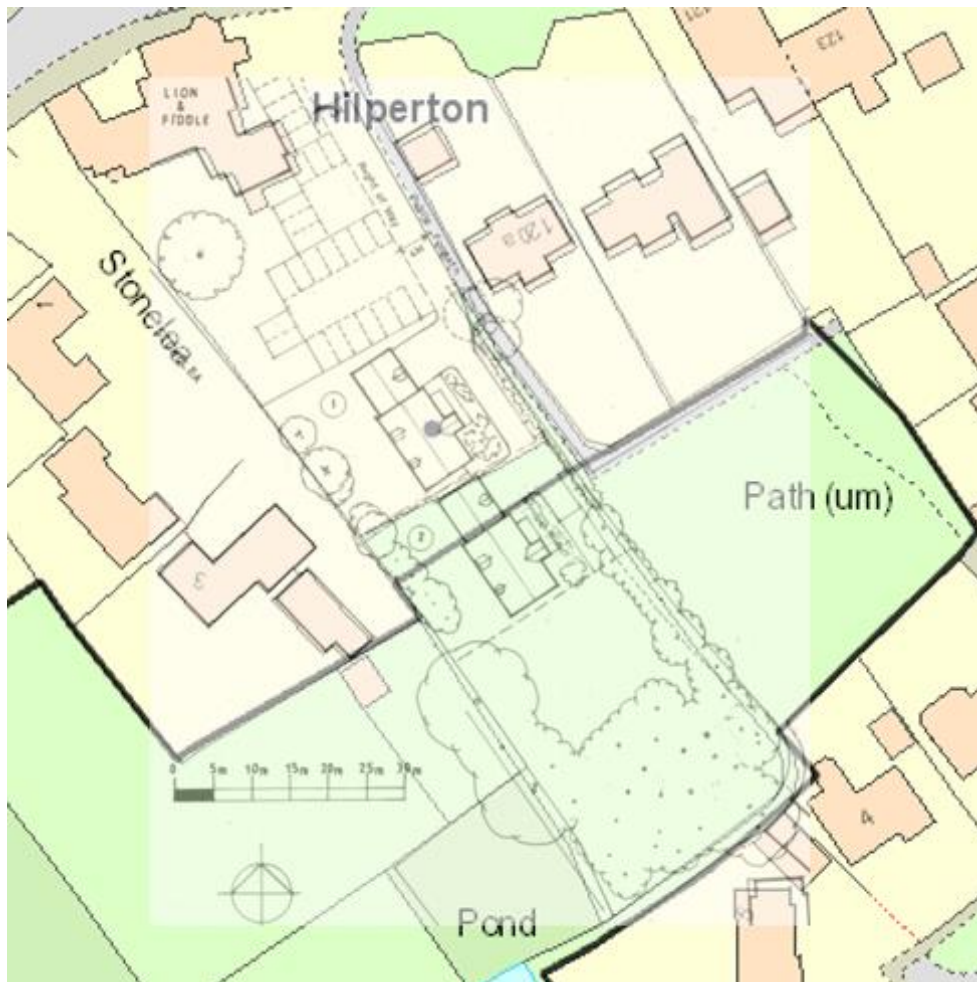
- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole*

9.1.3 It is also important to acknowledge that planning judgement is required in terms of setting out to the degree of weight that should be given to any ‘out of date’ adopted local plan policy, noting that full weight cannot be afforded to such policies including CP1, CP2 and CP29 that seek to restrict new housing outside of settlement limits, whilst the Council continues to have a housing supply deficit.

9.1.4 With the housing supply deficit fully noted and having appraised the consultee and public representations, officers submit that this application proposal, when tested against NPPF paragraph 11, the modest encroachment beyond the settlement limits is acceptable and that no substantive harm to any protected area or asset of particular importance would occur; and furthermore, officers submit that in the absence of demonstrable harm, CP1, CP2 and CP29 would not provide robust grounds for a refusal decision.

9.1.5 Hilperton is designated as a 'large village', which is identified having "a *limited range of employment, services and facilities*" and this windfall development would have the potential to support existing and new services and facilities.

9.1.6 With the aid of a plan overlay and OS extract, the following insert illustrates the settlement limits for the village, and by plotting the two proposed dwellings, it is clear that one of the proposed residential plots and about 30% of the other proposed house/plot would be located within the defined Hilperton village settlement boundary.



9.1.7 As illustrated by the above insert, there are existing residential properties located to the west, south and east of the application site, with the application site forming part of the green space that separates Ashton Rise (to the south) and the Lion and Fiddle public house and the properties found along Stonelea.

9.1.8 It is important to report that the proposed wildlife area that would be located to the immediate south of Plot 2 would not form part of any residential curtilage and as such, it would have no associated domestic permitted development (PD) rights and as recommended, if members are minded to endorse the approval of this application, it would be safeguarded for biodiversity enhancement through a Section 106 legal agreement.

9.1.9 Although full weight cannot be afforded to WCS Policy CP2, it sets out the delivery strategy for the period of 2006-2026 which aims to deliver development in the most sustainable manner through directing new housing growth to the defined settlements and through sites identified in made neighbourhood plans and site allocation plans. Officers appreciate that part of the proposed development site would be located just outside the defined settlement boundary and in such circumstances CP2 directs that:

Other than in circumstances as permitted by other policies within this plan, identified in paragraph 4.25, 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.

9.1.10 Paragraph 4.25 of the supporting text for CP2 sets out a number of 'exception policies', which aim to respond to local circumstances and national policy and include:

- 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)

9.1.11 In addition to the above, the made Hilperton neighbourhood plan includes a housing policy (Policy 2) which supports the construction of new housing "to meet local market and affordable housing needs" within the defined settlement boundary of Hilperton and "exceptionally in the countryside where it satisfies national and strategic policies and delivers:

- a) *Self build homes;*
- b) *'Eco-homes' with innovative designs that incorporate renewable energy and/or sustainable construction methods;*
- c) *Retirement homes, extra care housing or other homes designed for the over 55s"*

9.1.12 Whilst this application does not fully comply with WCS CP2 and Policy 2 of the made Neighbourhood Plan, with the housing supply shortfall and there being a residual housing delivery requirement for the Trowbridge Community Area (which the following insert reveals a taken from the latest HLSS), and the absence of substantive harm being identified for this 2-house development, officers have reached the conclusion that the application is acceptable in principle and that this small windfall development proposal should be approved subject to conditions (and a s106 legal agreement).

Area	Indicative requirement 2006-2026	Completions 2006-2019	Developable commitments 2019-2026 ¹⁰	Indicative remaining requirement ¹¹
Corsham CA	1,395	1,217	377	157
Malmesbury	885	812	176	0
Malmesbury CA remainder	510	402	179	0
Malmesbury CA	1,395	1,214	355	0
Melksham and Bowerhill	2,240	1,699	895	0
Melksham CA remainder ¹⁴	130	138	52	0
Melksham CA ¹⁴	2,370	1,837	946	0
Royal Wootton Bassett	1,070	1,081	57	0
Royal Wootton Bassett and Cricklade CA remainder ¹⁵	385	428	254	0
Royal Wootton Bassett and Cricklade CA ¹⁵	1,455	1,509	311	0
Trowbridge	6,810	3,187	1,453	2,170
Trowbridge CA remainder	165	272	46	0
Trowbridge CA	6,975	3,459	1,499	2,170

9.1.13 The majority of the application site is located within the defined settlement boundary for Hilperton, where the principle of residential development is supported by CP1, CP2 and CP29 of the adopted WCS.

9.1.14 In applying the NPPF tilted balance, officers appreciate that part of the proposed house for Plot 2 would be outside the settlement limits, but it would not be any less sustainable than Plot 1 and in the absence of any demonstrable harm, officers recommend that this application should be supported.

9.2 Impact on the Character and the Appearance of the Area: The application site is located to the rear of the public house and area of hardstanding, and is bounded by well-established tree planting along the eastern, southern and western boundaries. The immediate area is characterised predominantly by residential use, comprising of two storey properties along with some bungalows/chalet style bungalows located along Ashton Rise to the south. To the north side of Devizes Road, which would provide the means of vehicular access for this application, the properties are a mix of semi-detached and terraced units. In terms of building materials, there is a mix with render and stone, along with some limited use of red brick.

9.2.1 Policy CP57 of the adopted WCS requires a "high standard of design" for all new developments. This policy requires developments to "create a strong sense of place through drawing on the local context and being complementary to the locality" with applications being accompanied by appropriate information to demonstrate how the proposal would "make a positive contribution to the character of Wiltshire" and sets out a list of fourteen criteria that proposals for new development must comply with. Within the list of 14 criteria, the following requirements are included:

i. enhancing local distinctiveness by responding to the value of the natural and historic environment, relating positively to its landscape setting and the existing pattern of development and responding to local topography by ensuring that important views into, within and out of the site are to be retained and enhanced

ii. the retention and enhancement of existing important landscaping and natural features, (e.g. trees, hedges, banks and watercourses), in order to take opportunities to enhance biodiversity, create wildlife and recreational corridors, effectively integrate the development into its setting and to justify and mitigate against any losses that may occur through the development

iii. responding positively to the existing townscape and landscape features in terms of building layouts, built form, height, mass, scale, building line, plot size, elevational design, materials, streetscape and rooflines to effectively integrate the building into its setting

vi. making efficient use of land whilst taking account of the characteristics of the site and the local context to deliver an appropriate development which relates effectively to the immediate setting and to the wider character of the area

9.2.2 The latest iteration of the Framework has a greater focus on delivering high-quality design and sets out in paragraph 126 that the *"creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve"*. Paragraph 130 moreover sets out a series of six criteria to ensure development is of high quality over the lifetime of the development, being visually attractive and sympathetic to the local character and history, and creates a strong sense of place.

9.2.3 The proposed dwellings would be two storeys and would be completed in materials to reflect those used within the surrounding area, including the use of stone for the walls under a clay tiled roof. Larch cladding is proposed to be used on the attached garages for both plots, which is considered acceptable in this location, given that the properties would be viewed within the context of the existing vegetated boundaries.

9.2.4 With reference to the submitted Design and Access Statement, the dwellings would be c.7.8m high and would be *"compatible with the scale and character of surrounding buildings"*. Officers have no concerns about the proposed building materials and have concluded that the two proposed houses would assimilate with the site and surroundings. It is also argued that the existing well-established vegetation along the site boundaries would provide some robust screening of the proposed development.

9.2.5 In response to the third-party representations raising concern about overdevelopment, officers conclude that the proposed dwellings would be served by adequately sized rear gardens, which is comparable to nearby residential properties which would not constitute as inappropriate or overdevelopment of the site.

9.2.6 If the committee is minded to support this recommendation, it is considered necessary to impose planning conditions to include the submission of details for all proposed hard and soft new landscaping to ensure that the proposed means of enclosure and all other landscaping proposals are appropriate.

9.3 Impact on Nearby Designated Heritage Assets: The application site occupies a parcel of land to the rear of the Lion and Fiddle public house and is mostly within the Hilperton Conservation Area. The site is also in relatively close proximity to a number of listed buildings including the Grade II listed property known as Woodcote (No. 112 Church Street), Nos 209-210 Church Street, No. 15 Church Street and No. 110 Church Street to the north and Willow Cottage (No. 117 Trowbridge Road) to the west. As such, this proposal needs to be assessed against the relevant legislation and policies.

9.3.1 In terms of the historic environment, the main statutory tests are set out within the Planning (Listed Building and Conservation Areas) Act 1990. Section 66(1) requires that special regard be given to the desirability of preserving listed buildings, their settings or any features of special architectural or historic interest that they possess. Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 meanwhile also requires the Council to pay special attention to the desirability of preserving or enhancing the character or appearance of designated Conservation Areas.

9.3.2 The Framework also requires that 'great weight' be given to the conservation of heritage assets and advises a balanced approach with the public benefits which may result from proposals being weighed against any harm caused. In particular, NPPF paragraph 199 advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Paragraph 200 leads on to require that any harm or loss of significance should require a clear and convincing justification.

9.3.3 Core Policy 57 of the adopted WCS not only requires a "*high standard of design*" criterion iv requires new development to be "*sympathetic to and conserve[e] historic buildings and historic landscapes*". CP58 of the adopted WCS similarly sets that the new development "*should protect, conserve and where possible enhance the historic environment*" and that designated heritage assets and their settings should be "*conserved, and where appropriate enhanced in a manner appropriate to their significance*".

9.3.4 Policy 3 of the made Hilperton Neighbourhood Plan requires new development within the conservation area to "*demonstrate how the design chosen reflects the principles of the Village Design Statement 2005, including use of local and traditional materials and architectural features where appropriate. Applications for development should demonstrate how they have paid attention to the village design statement as appropriate*".

9.3.5 The Hilperton Conservation Area was designated in 1991, and most of the historic core is characterised by rows of small brick or rubble stone cottages dating from the 18th and 19th century

with buildings generally positioned to front the road, with the cottages interspersed by larger houses set back from the road with large gardens and are constructed from either rubble stone or ashlar.

9.3.6 As detailed within the submitted Design and Access Statement for this application, the proposed dwellings have been designed to reflect and be sympathetic to the materials and design of existing dwellings. The proposed dwellings would be two storeys high and would be constructed in complementary materials that would respond positively to existing materials found locally.

9.3.7 Officers have no objection to the proposed limited use of larch cladding for the proposed garaging. Although it is considered reasonable to request specific details and samples of the building materials by planning condition to ensure that the proposed materials are confirmed, checked and discharged prior to the dwellings being constructed, in the interests of preserving the character and appearance of the conservation area.

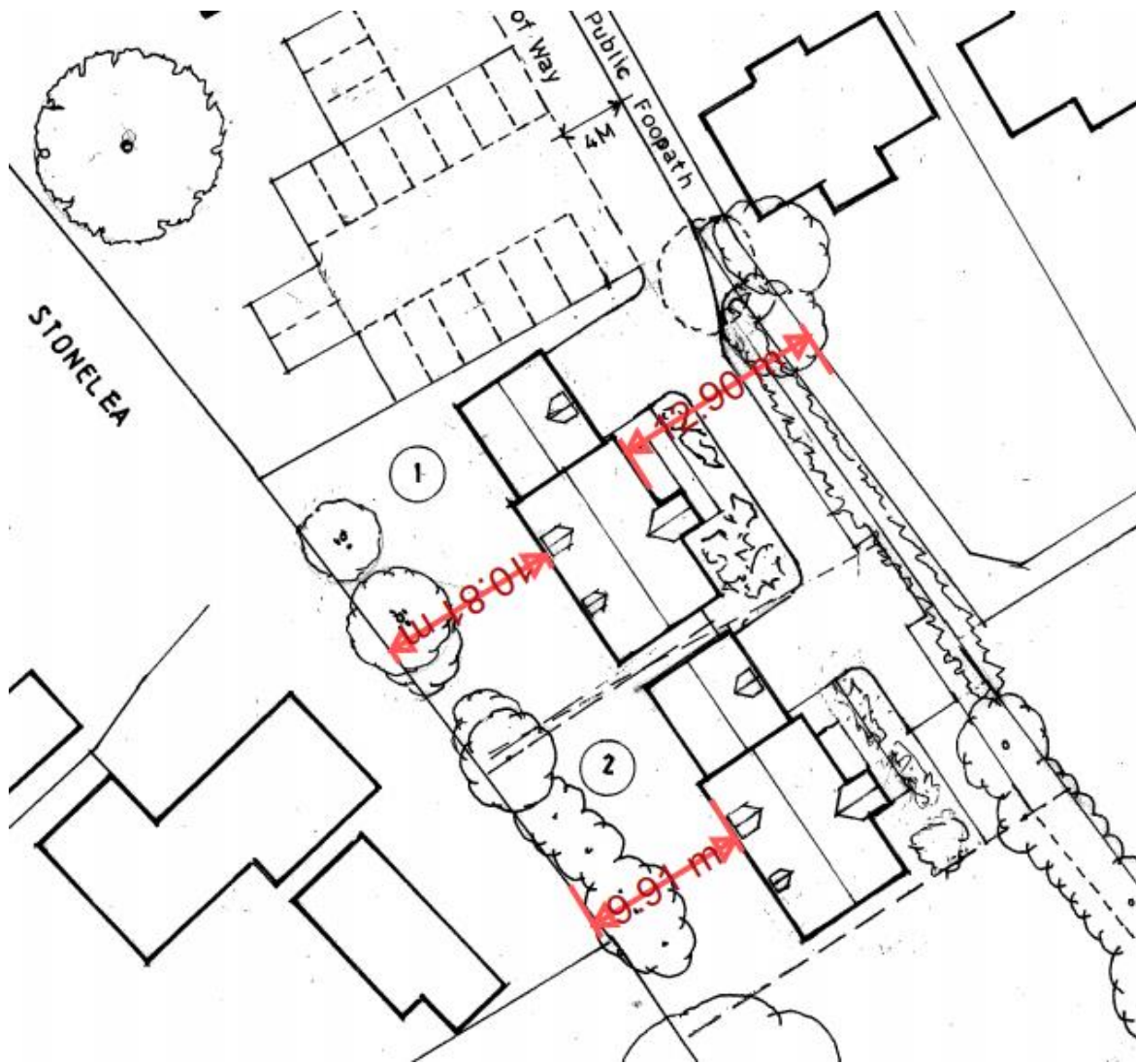
9.3.8 The proposed dwellings have been orientated on the site to reflect the orientation of the housing to the west at Stonelea, which were granted planning permission in the late 1980's, and officers are of the opinion that this proposal would cause 'no harm' to the historic significance of the conservation area.

9.3.9 The listed buildings closest to the application site are located along Church Street to the north and Trowbridge Road to the west which are orientated to face the public highway. There would be very limited intervisibility between the proposed dwellings and these listed buildings, and due to the intervening highway and existing buildings, there would be no material harm to the setting or significance of the nearby listed buildings. The proposal would therefore comply with the aforesaid legislation and planning policy.

9.4 Impact on Neighbouring Amenity and Living Conditions for Future Occupiers: Policy CP57 criteria vii requires new developments 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 (e.g. light intrusion, noise, smoke, fumes, effluent, waste or litter)"*.

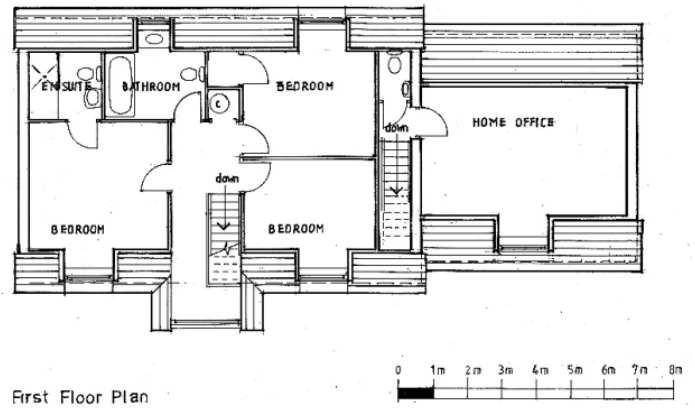
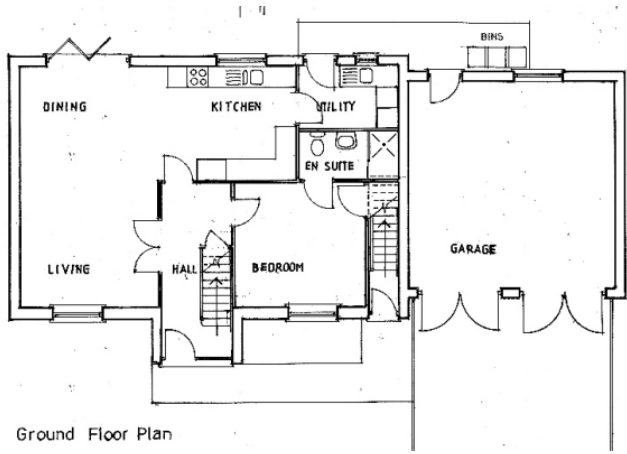
9.4.1 Criterion f) of paragraph 130 of the Framework meanwhile requires the creation of *"places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users"*.

9.4.2 The proposed dwellings have been plotted to be sited approximately between 9.9 and 10.8 metres from the western boundary and 12.9 metres from the eastern boundary, as illustrated by the following extract of the proposed block plan:



9.4.3 The following extracts illustrate the proposed fenestration arrangement for the rear elevation of the dwellings which would face westwards towards the vegetated boundary between the application site and the properties found along Stonelea and the proposed floor plans:

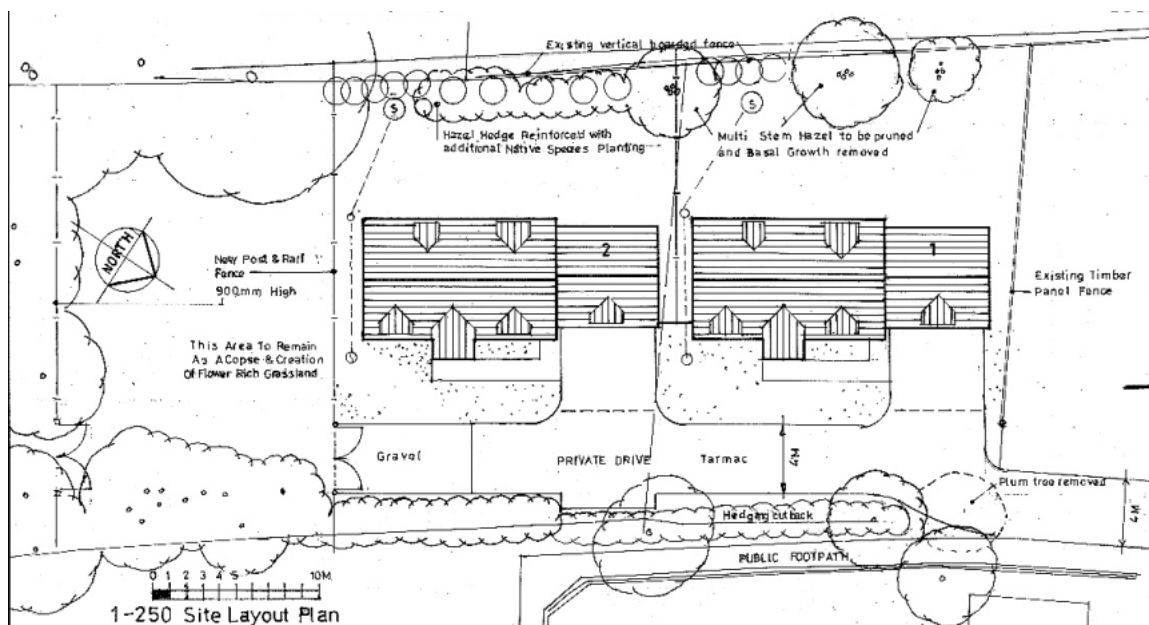




9.4.4 As a rule of thumb, new housing proposals should aim to provide a 21m separation to existing houses where habitable room windows face each other to safeguard residential amenity and privacy. Officers acknowledge that the proposed dwellings would have habitable first floor windows on the western (rear) and eastern (front) elevations as illustrated above.

9.4.5 However, the application site is bounded by well-established and mature tree planting to the west, south and east which is protected by a Tree Preservation Order (TPO) which provides substantive controls to retain what is significant screening that would ensure the two proposed dwellings would not cause material harm to the properties located to the west and east given that consent would be required from the local planning authority for any works to these TPO group of trees.

9.4.6 Furthermore, due to the orientation and relationship between the proposed dwellings and the existing properties, it is not considered that the proposed dwellings would create harmful overshadowing or overbearing impacts to nearby occupiers. Officers therefore conclude that the proposed development would not have an adverse impact on the amenity of neighbouring occupiers and would therefore comply with CP57 of the adopted WCS and paragraph 130 of the Framework.



9.4.7 Turning to the living conditions of the future occupiers of the proposed dwellings, all habitable rooms would be served by windows which would provide access to natural daylight. In addition, future occupiers of the proposed dwellings would benefit from sufficient private rear garden area.

9.4.8 The adopted WCS and Framework do not prescribe what size of residential garden should be provided in new developments, however, the Building for Life 12 (which was published in 2015) sets out an industry standard for well-designed dwellings and places and it advises on page 17 that:

"It is a good idea to ensure that rear gardens are at least equal to the ground floor footprint of the dwelling. Triangular shaped gardens rarely offer a practical, usable space. Allow residents the opportunity to access their garden without having to walk through their home." (emphasis added by officers).

9.4.9 With reference to the submitted floor plans, the footprint of the proposed dwellings measures approximately 130m², with the proposed rear gardens measuring between 183 and 210m². The two properties would also benefit from front garden space as well as some side garden ground which would exceed the Building for Life amenity provision standards. It is therefore considered that the future occupiers of the proposed dwellings would benefit from a high standard of amenity in accordance with CP57 of the adopted WCS and the Framework.

9.5 Ecology and Impact on TPO Trees: CP50 of the adopted WCS requires development proposals to *"demonstrate how they protect features of nature conservation and geological value as part of the design rationale"* and requires all proposals to *"incorporate appropriate measures to avoid and reduce disturbance of sensitive wildlife species and habitats throughout the lifetime of the development"*.

9.5.1 Improving biodiversity has been enshrined within the environmental objective contained within paragraph 8 of the Framework for achieving sustainable development. The Framework also requires net gains for biodiversity to be provided including by *"establishing coherent ecological networks that are more resilient to current and future pressures"* as set out within paragraph 174d.

9.5.2 The application has been submitted with a: Bat Mitigation Strategy, produced by Malford Environmental Consulting Ltd, dated 4 October 2021; an Ecology Survey and Mitigation Strategy - Final Report, produced by Malford Environmental Consulting Ltd, dated 18 February 2021; a Biodiversity Metric 2.0 Calculation Tool for Lion and Fiddle dated October 2021; and a Great Crested Newt Reasonable Avoidance Measures report, produced by Malford Environmental Consulting Ltd, dated 4 October 2021.

9.5.3 The submitted Ecology Survey and Mitigation Strategy concludes that the habitat that would be directly affected by the proposal would be *"very small and of low value for foraging/commuting bats"* and confirmed that no significant amount of the existing hedgerows and trees or woodland area would be removed or be adversely affected by the proposed development and that these would be retained and protected as part of this application.

9.5.4 In response to received third-party representations indicating badger presence, the applicant's ecologist has confirmed that no badger sett exists within the location of the development plots, but there was some evidence of a sett approximately 40 metres south of Plot 2 within the copse area, which falls outside the red line site boundary for this application. As such, it is considered that the distance between the proposed development and evidence of a badger sett does not require any additional surveying. It is however important to mention that the copse area to the south of the Plot 2 would be enhanced and preserved as off-site mitigation for the proposed development to benefit biodiversity.

9.5.5 The proposed two dwellings would have bat and bird nesting boxes incorporated into the south-eastern and north-western gables with Plot 1 having a swift box installed and Plot 2 to have a sparrow terrace. Bat roosting boxes would also be integrated within both dwellings in order to provide additional nesting and roosting spaces for local species which can be secured by way of a planning condition.

9.5.6 The application site is located predominately within the grey recreational impact zone of the TBMS and as such, CIL contributions would be required towards mitigation measures for the increase in recreational pressures with the southern part of the application site falling within the 'yellow zone' and medium risk' zone. The Green Lane Wood is located c.1.2km (to the south-east) of the application site, and the application has been subject to an Appropriate Assessment (AA) under Regulation 63 of the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 and Natural England were consulted.

9.5.7 The council's ecologist advises that the hedgerow on the western and eastern boundaries of Plot 2 and the adjacent grassland and woodland copse along the southern boundary connect to the wider network of foraging/commuting habitat located within the yellow medium-risk TBMS zone and further south to the red high-risk TBMS zone. As such, the absence of any mitigation could have the potential to cause disturbance to bat species using the hedgerow and grassland/woodland off-site habitats during construction and occupation through additional lighting, noise disturbance and human presence.

9.5.8 The application would result in the loss of some rough grassland habitat (measuring c.0.07ha) to accommodate Plot 2 and mitigation for this loss of habitat is necessary. Following negotiation with the applicant, the land adjacent to Plot 2 would be left undeveloped and set aside as a flower-rich grassland area as off-site mitigation for the loss of grassland on-site. This area would be fenced off from the proposed development together with the adjacent woodland copse and would need to be secured through the signing and sealing of a s106 legal agreement and managed in accordance with a Biodiversity Mitigation and Enhancement Plan (BMEP), which would be requested through a planning condition, to ensure its protection and management in perpetuity. Developer and CIL contributions would be required towards strategic recreational pressure mitigation. Section 9.7 of this report sets out the developer obligations.

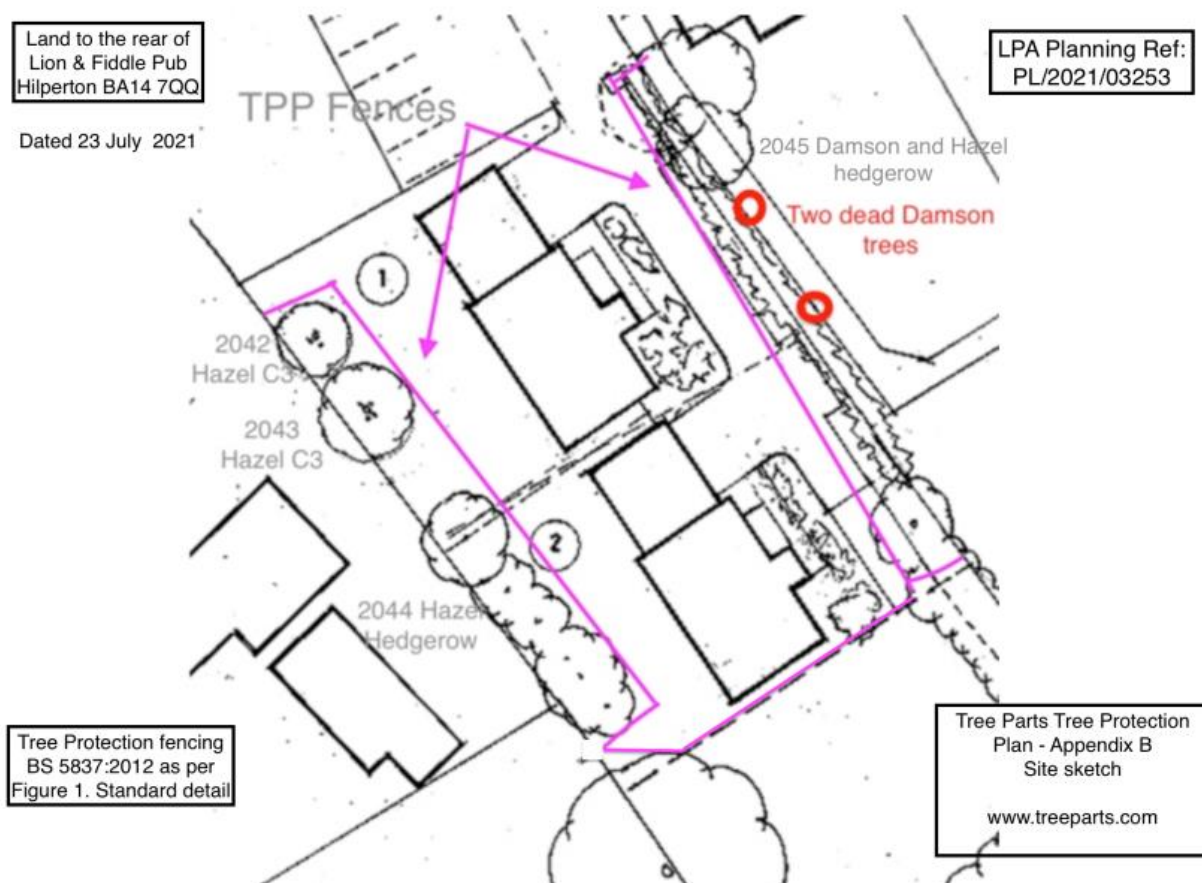
9.5.9 Subject to a s106 agreement being signed and sealed, and imposing requisite ecology safeguards as planning conditions to secure the biodiversity enhancement area to the south of Plot 2

and to restrict external lighting, no ecology-based objection is raised.

9.5.10 As previously mentioned, the application site boundaries are subject to a group TPO. The application has been submitted with a tree survey which includes a Arboricultural Impact Assessment (AIA) and Tree Protection Plan (TPL) which sets out how the TPO boundaries would be safeguarded to which the illustrated plan below refers.

9.5.11 The tree survey concludes that “no immediate tree works are required to facilitate the proposed development, other than risk assessing and dead hedgerow stems noted on the eastern boundary” as detailed by the below extract taken from page 11 of the tree survey:

Appendix B - Tree Protection Plan



9.5.12 It is recommended that a pre-commencement planning condition is imposed on any permission to secure the submission of a Arboricultural Method Statement (AMS) to establish how the TPO boundaries would be protected and to ensure the protection of the on-site trees and hedgerows during the construction works.

9.5.13 The Council’s tree officer was consulted and he has advised that the proposed development would not unduly affect any of the protected trees which bound the site, but he has recommended that a ‘no dig’ restriction is imposed for the construction of the proposed driveways leading from the

existing car park to the proposed dwellings.

9.5.14 Details relating to a means of root protection fencing during construction and root protection area fencing would also be required as part of the pre-commencement condition, including details of where materials would be stored on-site to ensure that they would not compromise the existing hedgerows and trees. Subject to securing an AMS, no objections are raised by the Council's tree officer.

9.6 Highways Safety and Impact on the Public Right of Way: The proposal seeks to utilise the existing established vehicular access which serves the public house and car park, which is under separate ownership. The applicant has provided evidence to confirm that they have a vehicular right of access over this car park. The following insert reveals the documented right of access from Devizes Road to the site.



9.6.1 The evidence that has been submitted clearly illustrates that the proposed dwellings would be accessed and served by a route that was secured legally at the time of the application site being purchased and that the proposed dwellings would be served by a legal right of vehicular access.

Revised drawings to confirm the width of this legal right of access were provided in order to accurately and clearly depict the route and width of this access.

9.6.2 Criterion xiv of CP57 requires proposals to satisfy the requirements of CP61 (Transport and New Development). CP61 requires new developments to be *“located and designed to reduce the need to travel particularly by private car, and to encourage the use of sustainable transport alternatives”*. CP61 also requires in criterion ii that proposals would be *“capable of being served by safe access to the highway network”*. In addition, CP64 requires adherence to residential parking standards. In addition to the abovementioned policies, paragraph 111 of the Framework states that developments *“should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe”*.

9.6.3 It is noted from reviewing the submitted representations that concerns have been raised relating to the position of the access to serve the proposed dwellings and its proximity to the public right of way. It is important to mention that this is an existing right of access which the applicant has a right to utilise through the car park. Whilst it is appreciated that the construction of two dwellings would increase the frequency this right of access is used, there is no highway-based objection to the proposal.

9.6.4 Following correspondence with the applicant's agent, it is understood that the car parking space allocation and provision, in addition to the legal right of access, was agreed between parties and secured at the time of sale in 2016. The right of access and car parking arrangement that is shown on the submitted block plan reflects the agreed access route and the public house's car parking provision.

9.6.5 In terms of the Council's car parking strategy, this proposal would not materially affect the on-site car parking provision for the public house. It has been calculated that when applying the Council's maximum parking standards (as set out in Appendix C of the adopted Car Parking Strategy) for the public house as a food and drink establishment, there would be an over provision of approximately 4 car parking spaces when tested against the public floor area of the Lion and Fiddle, with 29 spaces being available.

9.6.6 Whilst the highways engineer has raised some concern about the proximity of three of the proposed car parking spaces being located close to the bell mouth of the access, even if these three spaces were excluded there would still be an over provision for the food and drink business. Officers are satisfied that the public house would be served by a suitable number of on-site car parking provision.

9.6.7 Officers raise no objection to the proposal based on vehicular movement or trip generation and due regard must be given to the pre-existing use of the car park and access arrangements raising no highway conflict.

9.6.8 The proposed development would not result in a significant loss of on-site car parking for the

public house, as the proposed dwellings would be located within a parcel of land to the rear of the pub's car park, which is already separated by existing fencing and a gated entrance from the existing car park, as illustrated by the extracts provided below as taken from Google Earth (accessed at: [Google Earth](#)) and the case officer's site photographs.



Extract taken from Google Earth showing the Lion and Fiddle public house to the north of the image with the associated car parking to the south and a red line depicting the existing fencing which separates the application site from the pub's car park



Existing fencing with gate that separates the application site from the Lion and Fiddle's car park

9.6.9 It is important to appreciate that the rearrangement of car parking bays associated with the public house falls outside the control of the local planning authority unless engineering operations require planning permission. The re-organising of the parking bays on the existing hardstanding falls outside planning control. The determination of this application also cannot be influenced by any hazardous parking related to the pub house patrons. Whilst the local concerns raised about car parking have been duly noted, this application must be assessed on its own merits and as stated, there are no substantive highway-based reasons to refuse this application.

9.6.10 The proposed dwellings would be served by an existing vehicular access to which the applicant has a legal vehicular right of access over. In order to satisfy the council's minimum residential parking standards for the dwellings, at least three on-site car parking spaces must be provided for a 4+ bed dwellings as illustrated in the below table. Garages would only 'count' as an allocated car parking space where they meet the minimum internal size requirement of 6m x 3m.

Table 7.1 Minimum parking standards (allocated parking)

Bedrooms	Minimum spaces
1	1 space
2 to 3	2 spaces
4+	3 spaces
Visitor parking	0.2 spaces per dwelling (unallocated)

9.6.11 In this instance both dwellings would benefit from two car parking spaces external to the proposed garages and additional car parking within the proposed garages, as these would have an internal size of c.6 metres by 6 metres. It is however considered reasonable and necessary to remove PD rights to prevent the proposed garages from being converted into habitable use, to ensure the retention of adequate on-site car parking provision for the dwellings.

9.6.12 It is also important to stress that paragraph 111 of the Framework decrees that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety. Policy CP64 of the adopted WCS sets out to manage the demand for parking and sets residential parking standards based on minimum parking standards, and in this case, the development proposal would satisfy both national and local planning policy.

9.7 CIL: The developer is obligated to enter into a s106 legal agreement to secure the delivery of the off-site biodiversity mitigation and enhancement which shall be retained and maintained in perpetuity in accordance with a BMEP which will be secured by planning condition.

9.7.1 The developer is also obligated to contribute the sum of £777.62 for Plot 2 which will go towards funding the council led Habitat Mitigation Scheme for residual in-combination effects. This sum shall be paid prior to the commencement of development.

9.7.2 Prior to any on-site commencement the applicant would be required to complete the necessary

CiL liability forms and pay the requisite CiL contributions to the council, with 25% of the total sum going to the parish council who have a made Neighbourhood Plan in place.

10. Conclusion (The Planning Balance): The proposed development is supported by officers when tested against NPPF paragraph 11 and the application of the tilted balance which is engaged given the Council's inability to demonstrate a 5-year housing land supply. In the absence of any substantive harm or technical reason to refuse the application, officers recommend that the application be approved subject to securing a s106 and imposing planning conditions.

RECOMMENDATION: That planning permission be delegated and deferred to the Head of Development Management granted, following the sealing of a s106 legal agreement covering the matters set out within section 9.7 of this report; and subject to the following planning 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:

Drawing Nos: 2745-04, Location Plan, as received on 23 March 2021; 2745-01C, Proposed Block Plan, as received on 15 September 2021; 2745-05E, Proposed Elevations, Floor Plans and Site Layout, as received on 13 December 2021

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

3. No site clearance or development shall commence on site until an Arboricultural Method Statement (AMS) prepared by an arboricultural consultant providing comprehensive details of construction works in relation to trees has been submitted to, and approved in writing by, the Local Planning Authority. All works shall subsequently be carried out in strict accordance with the approved details. In particular, the method statement must provide the following:
 - A specification for protective fencing to trees during both site clearance and construction phases which complies with BS5837:2013 and a plan indicating the alignment of the protective fencing;
 - A specification for scaffolding and ground protection within tree protection zones in accordance with British Standard 5837:2013;
 - A schedule of tree works conforming to British Standard 3998:2010;
 - Details of general arboricultural matters such as the area for storage of materials and concrete mixing

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

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

4. No site clearance or development shall commence on site until a Biodiversity Mitigation and Enhancement Plan (BMEP) has been submitted to and approved in writing by the Local Planning Authority. The BMEP shall cover the off-site area of (1) flower-rich grassland to be created and, (2) the existing woodland copse. It shall include a marked-up plan showing the area, and cover long-term objectives and targets, management responsibilities and maintenance schedules for each of the ecological features, together with a mechanism for monitoring success of the management prescriptions, incorporating review and necessary adaptive management in order to attain targets.

The BMEP shall also include details of the legal and funding mechanism(s) by which long-term implementation of the plan will be secured. The BMEP shall be implemented in full and for the lifetime of the development in accordance with the approved details.

REASON: To ensure the long-term management of landscape and ecological features retained and created by the development for the lifetime of the scheme.

NOTE: A Section 106 agreement would be required to secure the biodiversity enhancement area and ensure that this buffer zone/mitigation area to the south of the development hereby approved, which is located within the 'yellow risk' zone of the TBMS and outside the red line boundary of the application site, is safeguarded and managed in accordance with any approved Biodiversity Mitigation and Enhancement Plan over the lifetime of the residential development.

5. No development shall commence above ground floor slab level until specific details and samples of the materials to be used for the external walls and roofs (including specific details of the stone and larch cladding to be used, including details of any paint or stain finish to be applied to the cladding) have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

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

6. No development shall commence above ground slab level until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include:-

- location and current canopy spread of all existing trees and hedgerows on the land;
- full details of all existing trees and hedging to be retained, together with measures for their protection in the course of development;
- a detailed planting specification showing all plant species, supply and planting sizes and planting densities;
- all means of enclosure;
- car park layouts;
- other vehicle and pedestrian access and circulation areas;
- all hard and soft surfacing materials;

REASON: In order that the development is undertaken in an acceptable manner, to ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

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

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

8. No development shall commence on site until a scheme for the discharge of surface water from the site (including surface water from the access and driveway for the dwellings), incorporating sustainable drainage details, has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first occupied until surface water drainage has been constructed in accordance with the approved scheme.

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

9. The development hereby approved shall be carried out in strict accordance with all of the recommendations for mitigation and compensation set out in the Ecology Strategy & Mitigation Strategy (produced by Malford Environmental Consulting Ltd, dated 18 February, 2021) and the Great Crested Newt Reasonable Avoidance Measures (produced by Malford Environmental Consulting Ltd, dated 4 October 2021).

REASON: To ensure adequate protection and mitigation for protected species through the implementation of detailed mitigation measures that were prepared and submitted with the application before determination.

10. The development hereby approved shall be carried out in strict accordance with all of the recommendations for mitigation and compensation set out in the Bat Mitigation Strategy (produced by Malford Environmental Consulting Ltd, dated 4 October 2021). This shall include all biodiversity protection and management of the on-site hedgerows, and all enhancements as detailed on the mitigation strategy plan shown on page five of the aforementioned report.

REASON: To ensure adequate protection and mitigation for protected species through the implementation of detailed mitigation measures that were prepared and submitted with the application before determination.

11. No external lighting shall be installed on site until plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage have been submitted to and approved in writing by the Local Planning Authority. The plans shall be in accordance with the appropriate Environmental Zone standards set out by the Institution of Lighting Professionals in their publication GN01:21, 'Guidance Note 1 for the reduction of obtrusive light 2021' (ILP, 2021), and Guidance Note GN08-18 'Bats and artificial lighting in the UK', produced by the Bat Conservation Trust and Institution of Lighting Professionals.

Where light spill has the potential to impact bat habitat, a lighting impact assessment must be submitted as part of any discharge of conditions application to demonstrate that the requirements of Section 8.3 of the Trowbridge Bat Mitigation Strategy February 2020 are met.

The approved lighting shall be installed and maintained in accordance with the approved details and no additional external lighting shall be installed.

REASON: In the interests of the amenities of the area in order to minimise unnecessary light spillage above and outside the development site and to ensure lighting meets the requirements of the Trowbridge Bat Mitigation Strategy.

NOTE: This condition can only be discharged when a post-development lighting survey conducted in accordance with Section 8.3.4 of the Trowbridge Bat Mitigation Strategy has been submitted to the Local Planning Authority demonstrating compliance with the approved lighting plans, having implemented and retested any necessary remedial measures.

12. No lighting shall be used throughout the construction phase of the development hereby approved and no development (including any demolition or ground works) shall take place outside daylight hours.

REASON: The introduction of artificial light/noise disturbance is likely to mean such species are disturbed and/or discouraged from using established flyways or foraging areas. Such disturbance will constitute an offence under relevant wildlife legislation.

13. No part of the development hereby permitted shall be first occupied until the access, turning area and parking spaces have been completed in accordance with the details shown on drawing no. 2745-05 Rev E. The areas shall be maintained for those purposes at all times thereafter.

REASON: In the interests of highway safety and to ensure that the dwellings are served by adequate access and car parking

14. No materials, plant, temporary structures or excavations of any kind should be deposited/undertaken which obstruct or adversely affect the public right of way whilst development takes place.

REASON: To ensure the public right of way remains available and convenient for public use

15. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.3) (England) Order 2020 (or any Order revoking or re-enacting or amending that Order with or without modification), the garage(s) hereby permitted shall not be converted to habitable accommodation.

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

INFORMATIVES TO APPLICANT:

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

2. Any alterations to the approved plans, brought about by compliance with Building Regulations or any other reason must first be agreed in writing with the Local Planning Authority before commencement of work.
3. Please note that Council offices do not have the facility to receive material samples. Please deliver material samples to site and inform the Planning Officer where they are to be found.
4. Any new connections to Wessex Water's infrastructure would require their prior consent and therefore the applicant is advised to contact the respective water undertaker directly regarding this matter and proposal

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Wiltshire Council

PL/2021/03253

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TROWBRIDGE ROAD,
HILPERTON, TROWBRIDGE,



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REPORT FOR THE WESTERN AREA PLANNING COMMITTEE

Date of Meeting	16 February 2022
Application Reference	PL/2021/05520
Site Address	Unit 8 Atworth Business Park, Bath Road, Wiltshire, BA12 0AN
Proposal	Change of use to light industrial (Class E), variation of condition 10 and 12 attached to permission 19/06790/FUL, extension and alteration to existing building, landscaping and associated works
Applicant	Bristol Soap Ltd
Town / Parish Council	Atworth Parish Council
Electoral Division	Melksham Without North ED – Cllr Carbin
Grid Ref	386760- 156789
Type of Application	Full Planning Application
Case Officer	David Cox

Reason for the application being considered by Committee

This application was ‘called in’ for elected members to determine at the request of Cllr Carbin should officers be minded to support the application to enable the elected members to consider the following:

- The relationship to adjoining properties
- The environmental and highway impacts

1. Purpose of Report

The purpose of this 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 should be approved subject to conditions and the existing s106, that binds the entire business park, should be varied accordingly.

2. Report Summary

The key determining planning issues are considered to be:

- Principle of development
- Impact on neighbouring amenity
- Other issues
- Updated conditions

3. Site Description

The application site - developed out of the former Dowty Engineering site which had operated since the 1930's and became the Atworth Business Park in the late 1990s. Units 8 and 9 comprise a pair of semi-detached buildings which were granted permission in 1993 (under reference W/93/00116/OUT) with reserved matters approved in 1997 (reference W/97/01026/REM). The buildings are constructed of a red brick base with a light grey profile sheeting above and a grey steel profile-sheeting roof.

Several members may recall application 19/06790/FUL for unit 8 (*Retrospective change of use to B8 and proposed extension to existing building (also B8 Use), landscaping and associated works*) heard at the 18 December 2019 planning committee, where the recommendation to approve subject to varying the 1994 legal agreement was voted for by Members. The permission was eventually granted on 26 March 2020 following the variation of the legal agreement to include B8 uses as well as B1 and B2 on the application site. The permission included 13 conditions, three of which were pre-commencement conditions (No's 3, 4 and 9).

Conditions 3 (Great Crested Newt Mitigation Strategy) and 4 (Landscape and Ecology Management Plan (LEMP)) were discharged on 13 July 2020 under application 20/03763/DOC. However, condition 9 which required a thicket hedge protection plan has not yet been formally discharged.

The applicant has begun works under 19/06790/FUL and has undertaken a partial remodelling of the bund. In the LEMP, the thicket (which is shown in extract below) was shown to be retained and have a field access strip maintained between the bund and the thicket. The failure on the part of the applicant to formally discharge condition 9 is very concerning and does constitute a breach of planning control, however several site visits have been made following the implementation of the consented extension and the bund works, and the case officer can confirm that the thicket has been retained (and is protected) and whilst there remains an outstanding condition imposed on the 2019 application requiring formal discharge, officers advise that this can be secured through a separate application process. It is also the case that as there is a fresh application open for the Council to determine, another condition can be imposed to bind the applicant to adhere to suspensive planning conditions.



Extract from the LEMP discharged under 20/03763/DOC

Condition 10 imposed on the permission for application 19/06790/FUL limited unit 8's use to B8 (storage and distribution) only. However, since issuing the decision, new occupants have been found, Bristol Soaps Ltd, who manufacture soap and hand sanitiser products on site and then distribute it. This is why this application now seeks to vary the aforesaid condition to allow the premises to be used for 'Class E' purposes (a use which was formerly B1(c)). Whilst B2 and B8 land uses still exist, following legislative changes made by the Government in September 2020 enacted through the introduction of The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020, there is no longer a B1 land use. Instead, since Sept 2020, such uses fall under what is now titled Class E.

Condition 12 of application 19/06790/FUL stated that no windows, doors or any other form of openings other than those shown on the approved plans shall be inserted in the northern or western end elevations of the extension to unit 8. However, when unit 8 was constructed a side door, large enough for a forklift truck was formed into the northern elevation of the building, and this application seeks retrospective approval for that new opening.

4. Planning History

W/93/00116/OUT - *General industrial building on land to rear, and office block to existing unit, demolition of sports pavilion* – Granted permission including a s106 agreement to keep the units under B1 and B2 use but to also ensure that the adjacent (western field) was retained for private sporting/recreational use.

W/97/01026/REM - *Erection of industrial building and associated site works* – Approved

W/98/01498/FUL - *Erection of entrance wing to existing unit and revisions to approved car parking/turning areas* - Approved

17/05785/FUL - *Extension to B8 commercial building, service road extension, landscaping and associated drainage works* – Refused under delegated powers on ecology grounds only for the following reason:

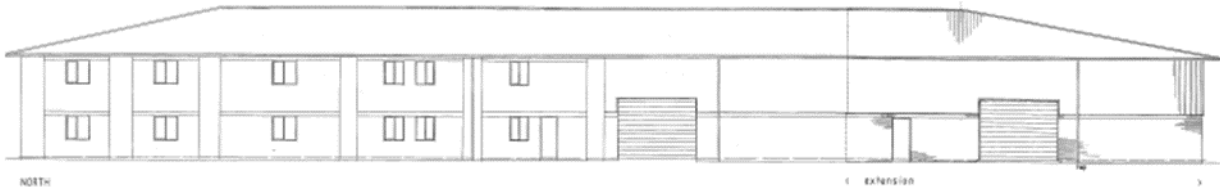
There is the potential for the site and/or surrounding land to support protected wildlife species – notably great crested newts and bats.

Although the application is accompanied by an ecological report, this is deficient in terms of the scope of survey and assessment, and the recommendations put forward (including mitigation measures), to minimise the potential for adverse impacts upon ecology as a result of the proposed works. Furthermore, there are a number of significant omissions in the report, it is not in line with industry best practice standards and contains out of date references. Therefore, the Council has not been provided with adequate evidence and assurances that ecology has been suitably assessed through an appropriate level of survey for the purposes of formulating a robust and sufficient approach to mitigation. This is contrary to Core Policy 50 ('Biodiversity and Geodiversity') of the Wiltshire Core Strategy 2015.

18/04589/FUL – *Extension to existing building (use class B8), extension to service road, landscaping and associated works* – Refused at Planning Committee on 11 May 2018 which was subsequently dismissed at appeal (under appeal ref: APP/Y3940/W/18/3216228) Note: A copy of the appeal decision is appended to this report.

It should be noted that in 2018, the Council was content that the ecology reason for refusal that was applied in 2017, had been overcome and that the physical appearance of the building was acceptable. However, the Committee refused the 2018 application for the reasons as set out below.

- 1 The proposed development lies outside of the Limits of Development brought forward for Atworth from the West Wiltshire Local Plan and retained in the Wiltshire Core Strategy. The proposal therefore conflicts with policies CP1 and CP2 of the Wiltshire Core Strategy which do not permit development outside these limits, other than that permitted by other policies in the Wiltshire Core Strategy. Whilst these other policies include CP34, the proposal does not comply with the criteria set out in that policy, for the reasons set out in 2 below.
- 2 The proposed development does not comply with Core Policy 34. In particular, the extension is not considered essential to the wider strategic interest of the economic development of Wiltshire; and the construction and use of the proposed road extension and turning head, coming so close to the adjacent residential property, will have an adverse impact on the amenity that residents of that property can reasonably expect to enjoy. The proposal is therefore not considered to be sustainable development.



Refused North Elevation for 18/04589/FUL



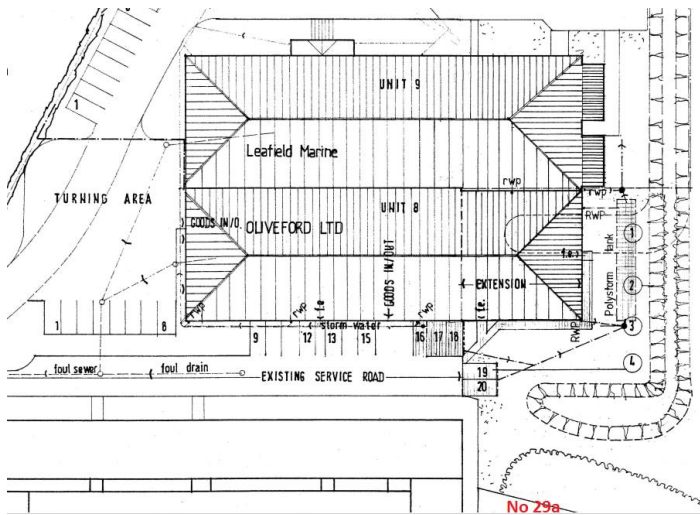
Refused Site Plan for 18/04589/FUL

Please note that the previous site plans were not presented in the usual manner facing north. Although No 29a is to the north of the application site, it is shown to be below but this should not be confused as being to the south.

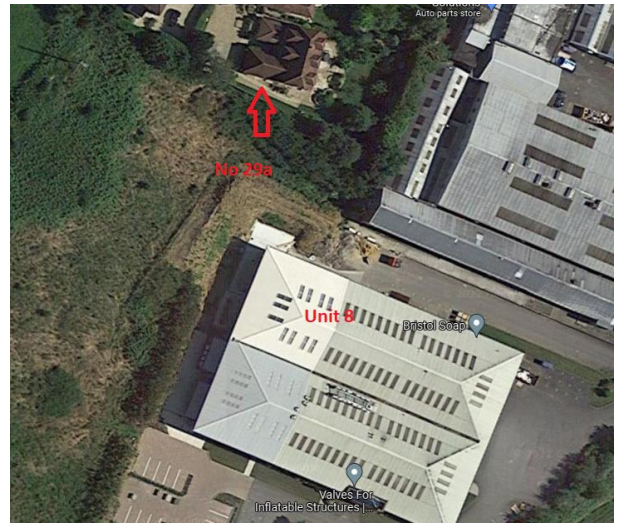
For the adjoining unit No. 9, planning permission was granted in application 16/09685/FUL for a *two-storey extension with replacement single storey lean-to structures; additional car parking & roadworks; landscaping; drainage and associated works* on 10 January 2017. A planning condition restricted its use to B1 use – a development which has been fully completed.

At the time of the submission of the 18/04589/FUL application, the extension at Unit 9 had not commenced on site, which explains why the extension does not appear on the proposed block plan above.

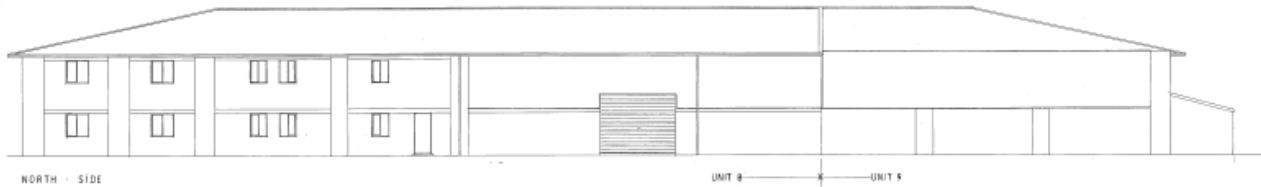
19/06790/FUL - *Retrospective change of use to B8 and proposed extension to existing building (also B8 Use), landscaping and associated work* – Approved at the 18 December 2019 western planning committee. This proposal removed the continuous turning area adjacent to No 29a and omitted the service door from the northern elevation facing No 29a from the 18/04589/FUL application.



Approved Site Plan for 19/06790/FUL



2022 Google Aerial image of unit 8 and No 29a

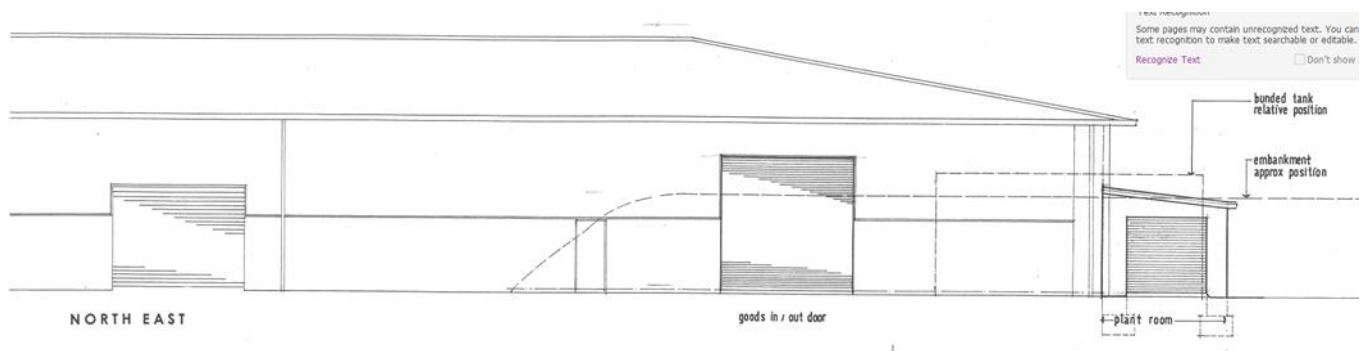


Approved North Elevation for 19/06790/FUL

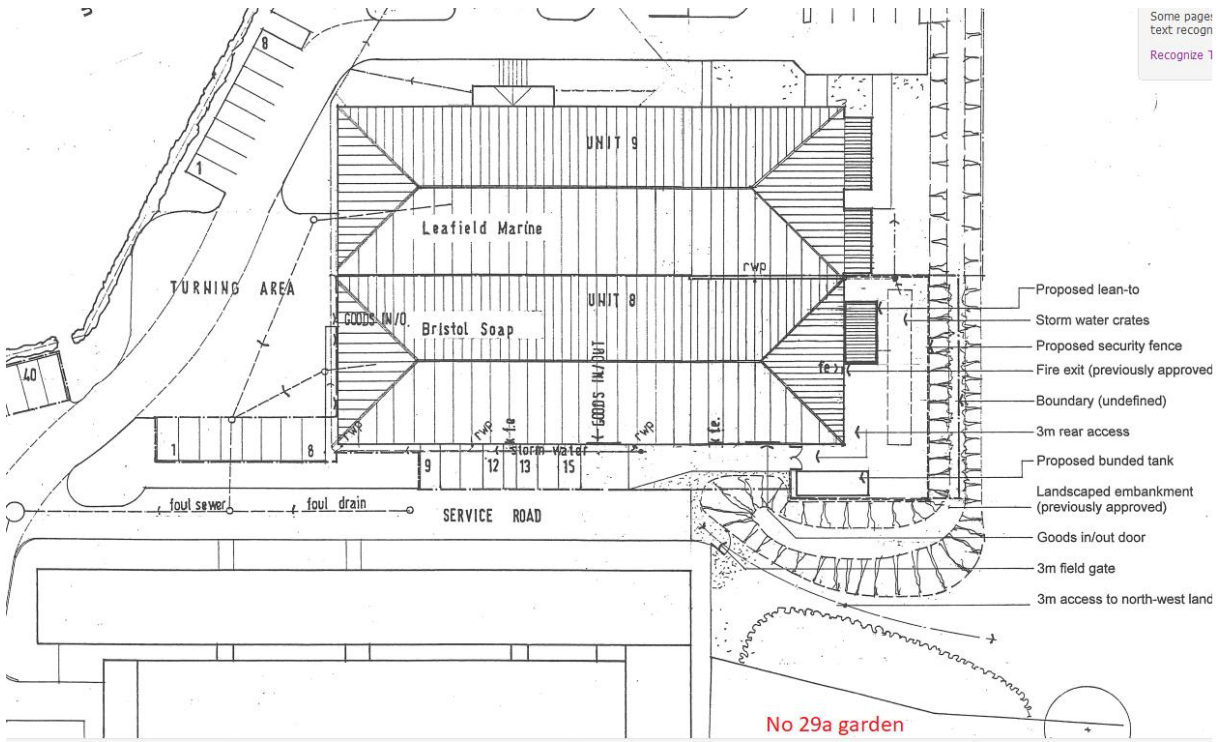
20/11497/FUL - Extension and alteration to existing building, bunded tank, lean to plant room and security fence – withdrawn by applicant 26 January 2021 – This proposal included the new goods in/out door on the northern elevation of the extended unit.

5. The Proposal

This application seeks full planning permission for the change of use of the whole of unit 8 to light industrial (Class E – formerly B1c) and to vary conditions 10 and 12 of application 19/06790/FUL. For the avoidance of any doubt conditions 10 and 12 relate to restricting the use of the unit to B8 only and not having any door or opening on the northern or western elevations.



Proposed North Elevation



Proposed Site Plan

The main aspect of this application involves the provision of a 4-metre-high goods in and out door from the extension to unit 8 but with only a narrow 3 metre wide access to it from the existing service road (which can be seen in the image below). There is no new turning area adjacent to No 29a, and the bund has been extended approximately 6-8 metres to the east built over where the turning head was proposed in application 18/04589/FUL.



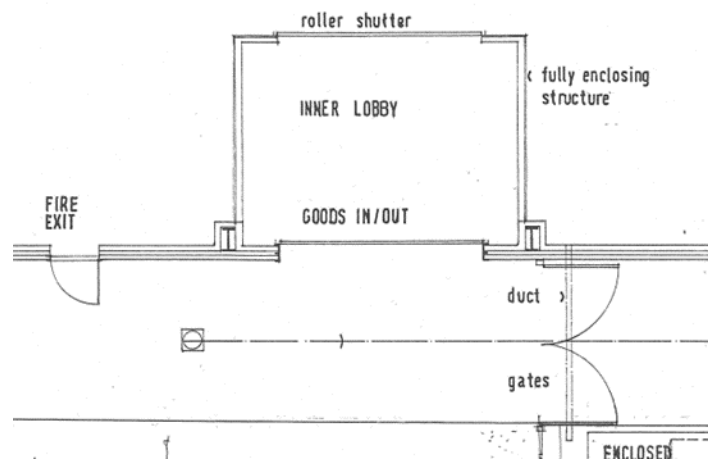
Existing goods in and our door, the extension and new goods in/out door and the bund

The proposal also includes the construction of a 3m x 8m lean to plant room on the western end elevation adjacent to unit 9 (the hardstanding can be seen alongside No 9's own lean-to extension in the image below). The proposal also includes a bunded tank (8m x 3m x 3m) with a volume of approximately 33,000 litres) on a fixed base. As shown on the site plan, the tank would be enclosed by the bund and would be just opposite the new goods in/out door.



View from the top of the bund with the thicket adjacent to No 29a on the left and the view towards unit 9 on the right

The supporting design and access statement states that only forklift trucks will use the goods in/out door. There is also an internal shutter door that would remain closed when the outside door is open during deliveries (to help prevent escape of plant noise). The applicant states that there would be never any direct opening into this part of the building. The existing forklift trucks are electric and don't have to have reversing buzzers or beepers. Officers witnessed them in use and confirm that their operation is very quiet. For the avoidance of any doubt, Officers did not witness any actual loading or unloading.



Extract from the proposed floor plan showing the internal lobby from the new goods door

The design and access statement confirms that the main unloading area will remain at the eastern end of the unit (see 'turning area' on the site plan) and then items are taken down the service road and into the new 3-metre-wide access into the new goods in/out door. There are on average 6 deliveries per day, where it takes 6 forklift trips to unload the goods into the building taking approximately 10 minutes each time.

In the design and access statement the applicants state that they were happy for a delivery hour restriction and the use of the new goods in/out door of 07:30 to 18:00, but via emails have subsequently agreed to limiting the whole operation of the unit from 07:30 to 19:00 Monday to Friday and 09:00 to 16:00 on Saturday.

For the avoidance of any doubt the original (and smaller) existing goods in/out door on the northern elevation is actually blocked by the presence of an internal mezzanine floor and existing plant and machinery within the unit as witnessed on site by the Council's case officer and Environmental Health Officer.

The applicants have also submitted a supporting noise report.

6. Planning Policy

National Context:

The National Planning Policy Framework 2021 (NPPF), The Noise Policy Statement for England (NPSE) and Planning Practice Guidance (PPG)

Local Context:

The Wiltshire Core Strategy CP1 – Settlement Strategy; CP2 – Delivery Strategy; CP15 – Melksham Community Area; CP34 -Additional employment land; CP35 Existing Employment Sites; CP50 - Biodiversity and geodiversity; CP57 – Ensuring High Quality Design and Place Shaping; CP60 – Sustainable Transport; CP61 – Transport and New Development; CP64 – Demand Management; CP67 – Flood Risk

West Wiltshire District Plan 1st Alteration, 2004 - Saved Policy U1a Foul Water Disposal; Saved policy U2 Surface Water Disposal

Leisure and Recreation Development Plan Document – January 2009

Atworth Parish Plan 2010 (updated 2015)

7. Consultations

Atworth Parish Council – Objects based on the following:

The new submissions do not appear to provide the noise outputs of the proposed new plant, the noise report seems to focus on ambient noise. The applicant needs to clearly explain new noise emission levels and any appropriate mitigation.

It appears that the doors towards the rear of the new factory were put in because the applicants designed the new internal operational layout with this new access an integral part, ignoring the planning history and the fact that this access was not deemed acceptable.

The retrospective nature of this application is unfortunate because if the applicants had addressed planning and applied in a timely manner they would not now be having to contemplate reorganising the internal layout and operations of their factory.

There does not appear to be any gate blocking the side access as claimed in the supporting information.

The Parish Council whilst supporting this business in principle, still objects to the lack of information on noise and to the new service access.

Wiltshire Council Environmental Health Officer – No objection.

An investigation has been carried out into recent complaints received about night-time noise from Unit 8 at Atworth Business Park and following investigations it has been confirmed that the noise does not relate to any activity at Bristol Soaps Ltd and this subject property at Unit 8. Instead, it has been observed that the

night-time noise relates to a compressor at a neighbouring unit. After three visits including during the night the public protection officer confirmed that there was no noise from unit 8.

The public protection officer is content with a planning condition being imposed to restrict the working hours at unit 8 as they have proposed which will continue to ensure local amenity is protected during the night-time. A condition to restrict any further construction work necessary to within our standard hours is also requested.

In respect of the general activity at the site; the content of the noise reports have been carefully appraised and in addition to a joint site visit on 18 November 2021 to meet with both the General Manager and the Finance Director of the Parent Company and the site managers, a further noise assessment was carried out. During the visit, the site manager was asked to turn on all the noise generating plant equipment.

The public protection officer monitored noise levels from outside and confirmed being satisfied that under normal operating conditions there were no significant noise impacts that would otherwise affect local amenity.

The plant proposed for the lean-to outside to support the water tank was very quiet in operation; and when operating, a conversation could be had beside it, and accordingly no noise related concerns are highlighted pursuant to the external plant in terms of impacts to local amenity. Should any noise problems arise in the future, the public protection team would investigate and, if necessary, take action applying the statutory nuisance legislation.

It is worth noting that during the site visits, the two loudest events observed were associated to the compressor at Unit 9 and a worker who moved a small load along the roadway between units 7 and 8 using a small noisy trolley. The employee apparently works in one of the other units but uses that roadway and trolley to move things about. The noise from this was far louder than the electric forklifts which use the same route to serve Unit 8.

A further complaint about the extraction to Unit 8 has also been investigated with no further action required and following a concern raised about security lighting on Unit 8, following the night-time inspection visit, it was observed that the lighting at unit 8 does not justify any action and it was observed that other units within the business park have much brighter lighting than unit 8..

Wiltshire Council Drainage Officer - Insufficient information has been provided to support the proposed drainage strategy. Evidence of soakaway testing is required and there should be no onward disposal from porous paving to a watercourse.

NOTE: Officers note that for application 19/06790/FUL (for the extension to unit 8, Drainage Officers provided 'no comment' and didn't request additional information or conditions.

Wiltshire Council Landscape Officer - As stated in the LVIA, the application site has the benefit of a previously approved landscape scheme for a perimeter bund and native species woodland edge planting. The work is to be carried out according with application reference number 19/06790/FUL and the Soft Landscape Plan BW/VL/ATUNIT8/19L3. However, there will be a potential impact on:

- Intrusion into the open countryside and loss of rural character
- Scale of development and consistency with its location
- Residential amenity of private houses on the south side of Atworth
- Further expansion of the industrial area and encroachment into open countryside

The proposed provision of the extra goods in/out door on the side could increase the activity of the site which could potentially increase the intrusion of noise, motion and light pollution in this area. It will take the planting some time to mature to provide mitigation. Although the LVIA mentions that there will be 5-year management plan no details of this management plan have been submitted such as a maintenance schedule and aftercare etc. A detailed lighting plan should also be submitted, and external lighting should be designed to minimise light pollution.

8. Publicity

In addition to the posted-out neighbour letters to cover the two notification processes, a site notice was sent to the applicant's agent to erect on site which resulted in 22 letters of objection from 9 different people.

Neighbouring amenity impacts:

- Concerns over noise and whether new guidance from Defra has been taken into account?
- Serious concerns over noise impact on neighbouring residents
- Promises and assurances over the hours of operation to the service doors are not persuasive. They have set a precedent for non-compliance with conditions which the Council should take into account.
- What is the difference between this application and that dismissed at appeal in the 2018 application?
- Have adequate measures on the compressor on the bunded tank been considered? This has been missed out of the noise report
- Bunded tank: What is it going to store, will there be any noise or smells associated with the stored material, pumping it in/out of the tank, how will it be filled/emptied? In addition to noise, I would also urge that greater attention is paid to its refilling arrangement to prevent potential ecological impact to these potential toxic fluids entering our fragile ecosystem. The spill plan etc. appears lacklustre relative to the ecological setting as identified by previous application. The report still feels light in this regard, against the backdrop of a re-wilding area of Dowty Fields.
- Plant room: what process is the water di-ionising equipment used for? How noisy is this going to be, what access is required for maintenance etc. On grounds of amenity, the plant room door should also be reorientated by 180degrees to face away from residential area. The ventilation exhaust moved to the Eastern end of the building away for residential and routed internally.
- The statements in the noise survey don't match up with the design and access statement and therefore the results cannot be relied upon

Ecology impacts:

- No evidence that the LEMP has been complied with - 3 new Hibernaculae should have been constructed; none are in place. 2 bird boxes and 1 bat box should have been mounted on the corner of the new build; none are in place. The bund should have received extensive planting with native trees, shrubs and wildflower grass mix; the bund has been left as rough subsoil and clay with no planting.
- Will the bunded tank harm wildlife?

Other issues:

- There have been many breaches of condition of 19/06790/FUL including No 7 – the bund has not been finished despite occupation of the unit. Condition 13 prohibits outside storage yet there are large containers and skips
- The planning department must uphold consistency in forming their planning decisions in this connection and refer to correspondents between the case officer and the applicant in January 2021 where it was made clear that conditions relating to the use of the goods in/out door could not be managed nor enforced.
- There shouldn't be an access behind the bund and no gate has been erected yet.

Two letters of support from two different contributors

- Bristol Soap is a supplier to us and we understand that they need to upgrade their facilities to meet requirements for ourselves and other customers. This involves a planning application to create additional space. We support their application from a commercial point of view.
- It is vitally important for local businesses to support each other and during the last 18 months (Aug 2021) many businesses have faced unprecedented challenges and Bristol Sap have played an important role in ensuring organisations could continue to function.

9. Planning Considerations

Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require that the determination of planning applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise. In this case, the Wiltshire Core Strategy, including those policies of the West Wiltshire District Plan that continue to be saved and enshrined within the WCS, constitutes the relevant development plan for the Melksham area.

9.1 Principle of Development

9.1.1. The application site (and all of the industrial units within the Business Park) are located in 'countryside' outside of the limits of development of Atworth (which is identified by the black line in the image insert below).



9.1.2. Unlike the recent 18/04589/FUL and 19/06790/FUL applications which in part, related to extensions to Unit 8, this application seeks permission for the change of use of an existing unit from B8 to Class E. As the application site is part of the Atworth Business Park where a mixture of Class E manufacturing already takes place, and is a use that was previously captured by B1 land use, the principle of the proposed change of use is supported by officers. This application seeks to formally change the use of unit 8 from B8 (storage and distribution) to Class E (business use).

9.1.3. For the avoidance of any doubt, the s106 that covers the business park and allows for B1, B2 (now class E) and B8 uses, a modification to the legal agreement is recommended as a planning informative to update the agreement to reflect current legislative regulations.

9.2 Impact on neighbouring amenity

9.2.1. Neighbouring amenity is protected under Core Policy 57 vii) where development must “*have regard to the compatibility of adjoining buildings and uses, the impacts on the amenities of existing occupants, including the consideration of privacy, vibration and pollution.*”

9.2.2. Officers recommended planning conditions 10 and 12 for application 19/06790/FUL following the dismissed appeal decision for application 18/04589/FUL. Officers considered that whilst a B8 unit (condition 10) could cause some noise through the distribution of goods from a warehouse, another use like B1c) light

industry or B2 industrial, could result in more noise disturbance due to the actual manufacturing process. Condition 12 was imposed to require the applicant to apply for planning permission for another proposed additional wall opening. For the avoidance of any doubt, applicants can apply to vary or remove planning conditions which should be assessed fairly and on their own merits.

9.2.3. The unit forms a part of the established business park located immediately adjacent to existing residential development. Whilst the business park was an engineering, manufacturing and warehousing site since the 1930's residents have become concerned that since units 8 and 9 were permitted in 1993, the business park has expanded and there remain concerns that it may extend to the west and enclose more residential properties in the process. However, the extensions to units 8 and 9 have not substantively changed the character of the business park.

9.2.4. The dismissed appeal for 18/04589/FUL is a key consideration for the assessment of this application. It is important to note that the refused application sought to extend the service road to the west and to provide a hammerhead turning area within 2m of the boundary shared with No 29a. The 18/04589/FUL application also included a large vehicular goods in and outdoor on the extended northern elevation that would have faced No 29a.

9.2.5. In paragraphs 16 and 17 of the appeal decision the Inspectorate observed;

*“At present, vehicle movements associated with this part of the business park (*Units 8 and 9*) take place behind or between the buildings comprising the existing units, mitigating any effects on nearby residential properties. However, the proposal would extend the service road, beyond the elongated building and the footprint of units 6 and 7 and provide some additional parking spaces. The extended building, with its increased capacity, could also increase the potential number of vehicle movements, over and above that which serviced the unit in the past.*

The extended service road would also incorporate a new turning head to enable vehicle manoeuvring, adjacent to a ‘goods in/out’ entrance and additional parking spaces on the northern side of the building. According to the appellant, the turning head would, at its closest point, be just 2 metres away from the boundary of the rear garden of the dwelling at 29A Bath Road, the nearest house. There is an existing thicket of vegetation to the south of the garden boundary fence of that property, but a section of this would be removed, reducing its depth, to accommodate the turning head.”

Paragraphs 18 and 19 of the same appeal decision continued;

“I had the benefit of assessing the proposal both from the appeal site and from the garden of No 29A. The close proximity of the turning head and service road to the garden would be likely to result in noise and disturbance from commercial and other vehicles accessing the appeal site and manoeuvring in the turning head. There would also be noise from vehicle engines and negative effects from vehicle fumes. That would significantly disturb the peace and enjoyment of occupiers of No 29a, when using their garden.

As part of the thicket would be removed to accommodate the turning head, any protection that it could provide would be reduced. The position of the proposed earth bund and associated planting would not assist in mitigating the adverse effects of the turning area close to the garden.”

Paragraph 24 concludes by saying;

“Therefore, I conclude that the proposed development would harm the living conditions of nearby residential occupiers at No 29A, with particular regard to noise, disturbance and fumes from vehicles.”

9.2.6. Compared to the aforementioned appeal, there are material differences with this application. Firstly, the consented end elevation extension has been built as shown on the next page (and retrospective permission is sought for the goods in and outdoor). The access road has not been extended and the delivery of the landscaped bund remains extant. The access road still terminates at the same position which corresponds with the former rear western end elevation of unit 8. No concerns are raised from officers about the use of the of hardstanding access that is used by forklifts to serve the side door opening in unit 8.



View of the western end extension of unit 8 and unit 9's existing lean to extension

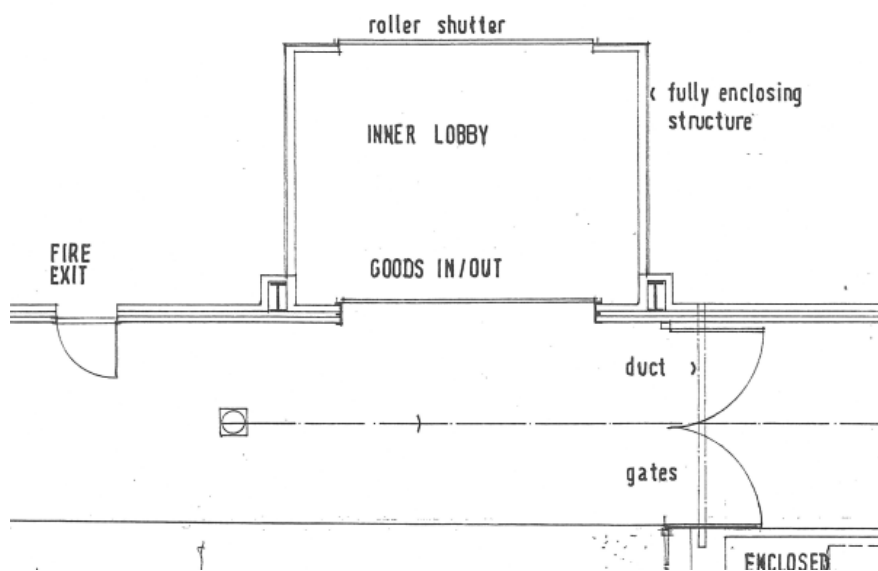
9.2.7. It continues to be the case that HGV vehicles use the main turning area within the business park (as shown below) and do not traverse the area of hardstanding between units 7 and 8. At the front of unit 8 there is a large apron allowing drivers sufficient space for manoeuvring around the site. The access road to the northern side elevation of unit 8 is about 6 metres wide and although wide enough to accommodate an HGV, it would require some significant manoeuvres and with the absence of a turning area at the end, the use of forklifts to move bulky items appears to be a logical and effective use of moving product in and out of the building into the retrospective goods in/out door on the northern elevation facing No 29a.



Front elevation of units 8 and 9 with the turning area

9.2.8. The applicant makes use of electric forklifts which were witnessed by officers during site inspections, and these do not produce harmful levels of noise. Whilst the use of electric forklifts cannot be enforced by condition there is no likelihood that the use of forklifts will be abandoned by the applicants. Indeed, electric vehicles are expected to become more commonplace as we approach 2030 and beyond as the country moves away from fossil fuel dependency. The use of electric forklifts accessing and exiting the goods in/out door, deserves to be given due weight in the planning balance.

9.2.9. The applicant has confirmed that there are about 6 deliveries each day to the premises, which in the context of the established business park is not considered significant. The following plan insert illustrates the presence of the consented internal shutter door which is kept shut when not in use which would mitigate against noise pollution and neighbouring impacts for when deliveries are transported from the main turning area, down the access road and into the retrospective goods in/out door.



Extract from the proposed floor plan showing the internal lobby from the new goods door

9.2.10. The noisiest operations associated to loading and unloading of HGV's occur in the turning area at the front of Unit 8 and sufficiently well away from residential properties. The transportation of the goods by electric forklifts along the access road is a relatively muted operation and no officer objection is raised. It should be noted that the Council's public protection team were consulted on this application and no objections were raised.

9.2.11. When withdrawn application 20/11497/FUL was first received the proposed site plan was not clear if the access road was going to be extended and the bund was also kept in its 19/06790/FUL position, effectively being 'held back' from the access road which could have allowed for a turning head to appear or be applied for afterwards. This led to some critical comments being sent to the applicant's agent which have been mentioned in the objection letters. However, for the avoidance of any doubt those officer comments related to the withdrawn application which have been addressed with the clarification that the bund has already been extended up to where the service road ends.

9.2.12. Whilst the goods in and out door could create some additional noise in and around unit 8 through the movement of products by the forklifts and any noise leakage from internal plant, officers are satisfied that sufficient mitigation will exist to safeguard neighbouring amenity through the completion and landscaping of the bund (which is identified for a bespoke condition) and the retention and ongoing protection of the thicket hedge which in combination should provide sufficient mitigation to safeguard neighbouring amenities from noise pollution.

9.2.13. In light of the above, the retrospective wall opening to form the goods in/out door is considered acceptable in terms of design and neighbouring impact.

9.2.14. Officers are also satisfied that the proposed Class E use with the internal and external plant and the manufacturing processes are compatible uses for this business park setting (when compared to the consented general storage and distribution use).

9.2.15. When this application was received, whilst a noise survey reported on the noise levels experienced at the boundary with the nearest residential receptor at No 29a, the survey only measured up to 4.20pm (with no explanation being given for the cut off time). Furthermore, in relation to the bunded tank the noise survey only stated that it would contain a “*8kw electric pump, located inside its own metal cabinet inside the larger tank cabinet and uses a maximum of a couple of times a week and so would not be operating continuously.*” There was no actual estimate of what the decibel level would be at 1m from the pump or at the boundary with No 29a in which to compare the recorded background noise level.

9.2.16. Officers insisted on a 24-hour noise survey and to evaluate the data from the original survey to measure the noise impacts at the boundary with No 29a. The applicants submitted a full 24-hour background noise survey, which was undertaken between 15:10 on Thursday 15 July 2021 and 15:40 on Friday 16 July 2021. The survey revealed that during the daytime, the noise levels were generally in the 40-50dBA range (Leq). During the evening hours this decreased to 20-25dBA (Leq). The noise report was clear that unit 8 was not in use overnight on the survey date and asserted that the original noise report had made an assumption that the unit would only be in operation during the daytime. There was also no indication or estimation within the noise report of what could be heard at the boundary with No 29a with unit 8 in full use overnight.

9.2.17. Following further negotiation between the applicant and officers, the applicant agreed to the imposition of a planning condition that would restrict use of the premises to the hours of 7.30am to 7pm, which has the support of planning and public protection officers.

9.2.18. Officers are fully mindful of paragraph 22 of the planning appeal decision for 18/04589/FUL whereby the planning inspector observed:

“...standard restrictions on operating hours, such as during the day and on Saturday mornings, appear to be based partly on an assumption that residential occupiers are more likely to be out of the house or at work during such hours, at least from Monday to Friday. However, that would not necessarily be effective in preventing harm to, for example, retired occupiers enjoying their garden or workers with less conventional working hours. Moreover, Saturday mornings are a time when people are reasonably entitled to expect some respite. Therefore, whilst I have considered if imposing conditions could make the proposal acceptable, given the close proximity of the turning area to the residential garden of No 29A, I am not persuaded that they would sufficiently mitigate the adverse effects.”

9.2.19. It is clear from the above quoted passage that an hours of operation condition was not considered acceptable to the planning appeal inspector for the previous proposal which included an extended turning head – which would have introduced more traffic closer to the boundary with No 29a. However, in this instance officers submit that the use of the goods in door is sufficiently far away enough away from the boundary with No 29a and since forklifts are used to move bulky items about, officers are satisfied that the ongoing use of the premises does not result in substantive harm to neighbouring amenities.

9.2.20. Finally, as can be seen by reading the Environmental Health Officers consultation response within section 7, the applicant was asked to turn on all internal machines with the goods doors closed, and from his external inspection, the public protection officer could only just make out the noise of the internal plant, and that in such circumstances, there would be no substantive reason to refuse the application. It has been observed that the electric pump for the bunded tank could cause some noise, but it is expected to be used infrequently and the pump would be enclosed within an enclosure, and would have the bund and thicket to help mitigate noise.

9.2.21. The public protection officer has also confirmed that he has investigated numerous noise complaints at the site and not found any of them to be associated with unit 8.

9.3 Other issues:

9.3.1. The Council's Drainage Officer has submitted a holding objection regarding the proposed drainage from the site. However, perhaps not appreciated by the Drainage Officer that previously there was 'no comment' from Drainage for the 19/06790/FUL application; and that this proposal is only proposing small physical changes to the bund and the creating of the narrow 3 metre wide access and hard standings for the bunded tank and extension. It would be expected for the external perimeter of the building to have hard standings anyway (for any required pedestrian emergency escape) and that this request for additional information cannot be reasonably requested at this time. Furthermore, drainage has not presented itself as an issue in the previous applications.

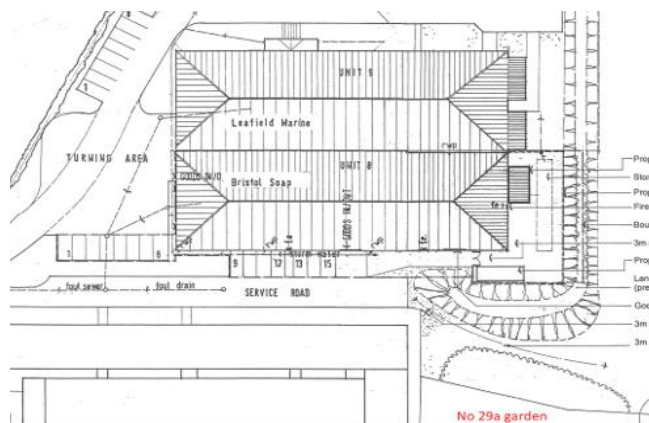
9.3.2. The consultation response received from the Council's landscape officer can be addressed by planning condition.

9.4 Updated Conditions:

9.4.1. Several of the letters of representation have raised issue with non-compliance with the conditions for application 19/06790/FUL in relation to ecology and landscaping. The applicants have verbally stated that the bund has not been completed because they are awaiting the outcome of this application so that they can then complete development and finish regrading the bund to match that on the proposed site plan. It is considered that this is reasonable as access for construction would be potentially tight otherwise.



Approved Site Plan for 19/06790/FUL



Proposed Site Plan

9.4.2. The above inserts reveal that the proposed landscape bund would be brought closer to Unit 8 compared to what was previously consented under application 19/06790/FUL (3.8m compared to 9.5m) and it would also be extended to the east by about 6-8 metres. An updated Landscape and Ecology Management Plan (LEMP) and Landscape Impact Assessment are required; and planning conditions are recommended along with there being a bespoke clause within an updated S106 to secure the completion of the bund extension. The applicant and landowner has been made aware of these requirements and they are agreeable to these obligations.

9.4.3. In the representation letters it is claimed that the Great Crested Newts condition (condition 3 of 19/06790/FUL) has not been complied with, including the construction of three hibernacula. However, photos of the hibernacula's have been submitted to the Council (and will be included in the Committee presentation). Furthermore, the applicants have had to comply with the licence they obtained from Natural England, where the newts were collected by a licensed ecologist, moved from the site, with fencing and other measures installed to prevent them coming back to the site of the bund works. It is therefore considered that condition 3 of 19/06790/FUL has been complied with, and a planning informative can reinforce the applicants obligations.

9.4.4. There is a complex planning history for this site, but it is important that the application before the committee is assessed on its merits. Whilst retrospective planning applications are never welcome, the impacts of the new wall opening on the north elevation of unit 8 has been thoroughly appraised by planning and public protection officers and it has been found to be acceptable. The proposed Class E use of the premises would be compatible with the existing land uses and the proposed plant and associated works are not case of concern to officers.

9.4.5. The bund as shown in the site photograph below is still to be completed and a condition is recommended to secure its completion should this application be supported by the committee.



Picture of the bund looking due south with units 8 and 9 to the left and open countryside to the right

10. Conclusion

This application seeks to regularise the formation of the goods in/out door wall opening on the northern elevation of unit 8 and to build a lean-to extension and incorporate a bunded tank. It is submitted that the proposal is acceptable in planning terms and the proposed change of use from B8 to Class E would not be demonstrably harmful to residential amenity or to visual amenity. The necessary extension to the bund requires a planning condition along with the landscape planting. The site has been visited several times by both the planning case officer and the public protection team and no material noise pollution was observed associated to the operations at unit 8. Consequently, officers submit that the application satisfies the Core Strategy and NPPF policy requirements.

11. Recommendation – Through taking into account all the material planning considerations outlined in this report, it is recommended that the Committee delegates and defers authority to the Head of Development Management to grant planning permission subject to the planning conditions and informatives listed below following securing an amendment to the legal agreement that binds the site which was varied in March 2020 to include the provision of a Class E land use and to secure the completion of the landscaped bund within 3 months of the completion of the rear (western) lean-to extension and installation of the bunded tank.

Planning 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:

Site Location Plan, Existing Floor Plan, Existing Elevations, Landscape and Visual Impact Assessment and Noise Assessment – all received 25 May 2021; Existing Site Plan, Proposed Site Layout (VL2020/12/04 B), Proposed Floor Plan, Proposed Site Layout (coloured), Proposed Elevations and Internal Layout Plan – all received 9 June 2021; Updated Design and Access Statement, additional noise report and 'Extract Site Plan' showing additional rail – all received 29 July 2021; and hours of operation agreement email dated 2 November 2021.

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

3. The manufacturing use hereby permitted shall only take place between the hours of 0730 and 1900 Mondays to Fridays and between 0900 and 1600 on Saturdays. The use shall not take place at any time on Sundays and Bank or Public Holidays.

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

4. Within 1 month of the date of this permission and prior to any further works commencing on re-grading the bund, an updated Landscape and Ecology Management Plan (LEMP) detailing the extended bund, shall be submitted to the local planning authority for approval in writing. The LEMP shall include, but not be limited to including, the following:

- a) Comprehensive finalised details of landscaping, planting including tree planting and grass seed sowing, together with a planting schedule and specification, an accompanying landscape plan(s) and details of ongoing management.
- b) Details of the 5-year landscape maintenance schedule cited in the Landscape and Visual Impact Assessment (Prepared by Brian Wooding CMLI, December 2020).
- c) Details of all proposed ecological enhancement features including bird nesting provision and habitat for Great crested newts and reptiles, with the proposed number and location of features shown on a plan; together with details of the maintenance and monitoring arrangements for these features.
- d) Details of the proposed maintenance and management of the site including the safeguarding of the thicket hedge and the mechanism for securing the implementation of the above mitigation.

Thereafter, the development shall be completed in accordance with the approved details and the site shall be managed and maintained in accordance with the measures set out in the approved LEMP in perpetuity unless otherwise agreed in writing with the local planning authority.

REASON: To ensure that the proposed landscaping and tree planting is appropriate to the locality, will be accommodated within the scheme layout and will serve a function for ecology and landscape; and to ensure the appropriate maintenance and management of habitats that provide a function in terms of landscape and

biodiversity, and incorporation of features within the scheme design and layout that will contribute to delivering biodiversity gain at the application site in accordance with the NPPF 2019, Core Policy 50 of the Wiltshire Core Strategy (Adopted January 2015) and Section 40 of the NERC Act 2006.

5. Within 1 month of the date of this permission and prior to any further works taking place pursuant to re-grading of the bund, an updated Landscape and Visual Impact Assessment shall be submitted to the local planning authority for its written approval.

REASON: To ensure that the proposed landscaping and tree planting is appropriate to the locality and to help mitigate the intrusion of noise, motion and light pollution in this area, will be accommodated within the scheme layout and will serve a function for ecology and landscape; and to ensure the appropriate maintenance and management of habitats that provide a function in terms of landscape.

NOTE: The above updated LVIA shall revise the figures showing the bund to accurately reflect the approved site plan VL2020/12/04 B

6. The re-grading of the bund shall be undertaken in strict accordance with the Discussion and Conclusions section of the Extended Phase 1 Ecological Survey (Stark Ecology, September 2019), the pending updated Landscape and Visual Impact Assessment (Prepared by Brian Wooding CMLI, December 2020) and Site Layout Plan (Drawing no. VL.2020/12/04 B received 9 June 2021).

The development shall also continue be undertaken in strict accordance with the finalised Great crested newt mitigation strategy as discharged in application 20/03763/DOC and the pending updated Landscape and Ecology Management Plan (LEMP) once submitted to and approved in writing by the local planning authority.

The development shall be undertaken with liaison with, and supervision by a suitably licensed, qualified and experienced professional ecological consultant.

REASON: To ensure that appropriate and adequate protection, mitigation and compensation for ecological receptors including protected and priority species and their habitats, is implemented in accordance with the NPPF 2019 and Core Policy 50 of the Wiltshire Core Strategy (Adopted January 2015), and to ensure compliance with the Conservation of Habitats and Species Regulations 2017, the Wildlife and Countryside Act 1981 (as amended) and Section 41 of the NERC Act (2006).

7. All soft landscaping (comprised in the approved details of conditions 4a and 5) shall be carried out in the first planting and seeding season following the completion of the bund; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

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

8. Notwithstanding the provisions of the Town and County Planning (General Permitted Development) (England) Order 2015 (or any other order revoking or re-enacting or amending that order with or without

modification), no windows, doors, or other form of openings other than those shown on the approved plans, shall be inserted in the northern or western end elevation(s) of the development hereby permitted.

REASON: In the interests of residential amenity

9. No external lighting on the recently extended section of unit 8 (as approved under application 19/06790/FUL) or on the lean-to extension subject to this application, shall be installed until plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage in accordance with the appropriate Environmental Zone Standards set out by the Institute of Lighting Professionals: Guidance Notes for the reduction Obtrusive Light GN01:2021; have been submitted to and approved in writing by the Local Planning Authority. The approved lighting shall be installed and shall be maintained in accordance with the approved details and no additional external lighting shall be installed.

REASON: In the interests of protecting protected species and the amenities of the area and to minimise unnecessary light spillage above and outside the development.

10. No materials, goods, plant, machinery, equipment, finished or unfinished products/parts of any description, skips, crates, containers, waste of any other item whatsoever shall be placed, stacked, deposited or stored outside the extension of Unit 8 permitted under application 19/06790/FUL.

REASON: In the interests of the appearance of the site and neighbouring amenity

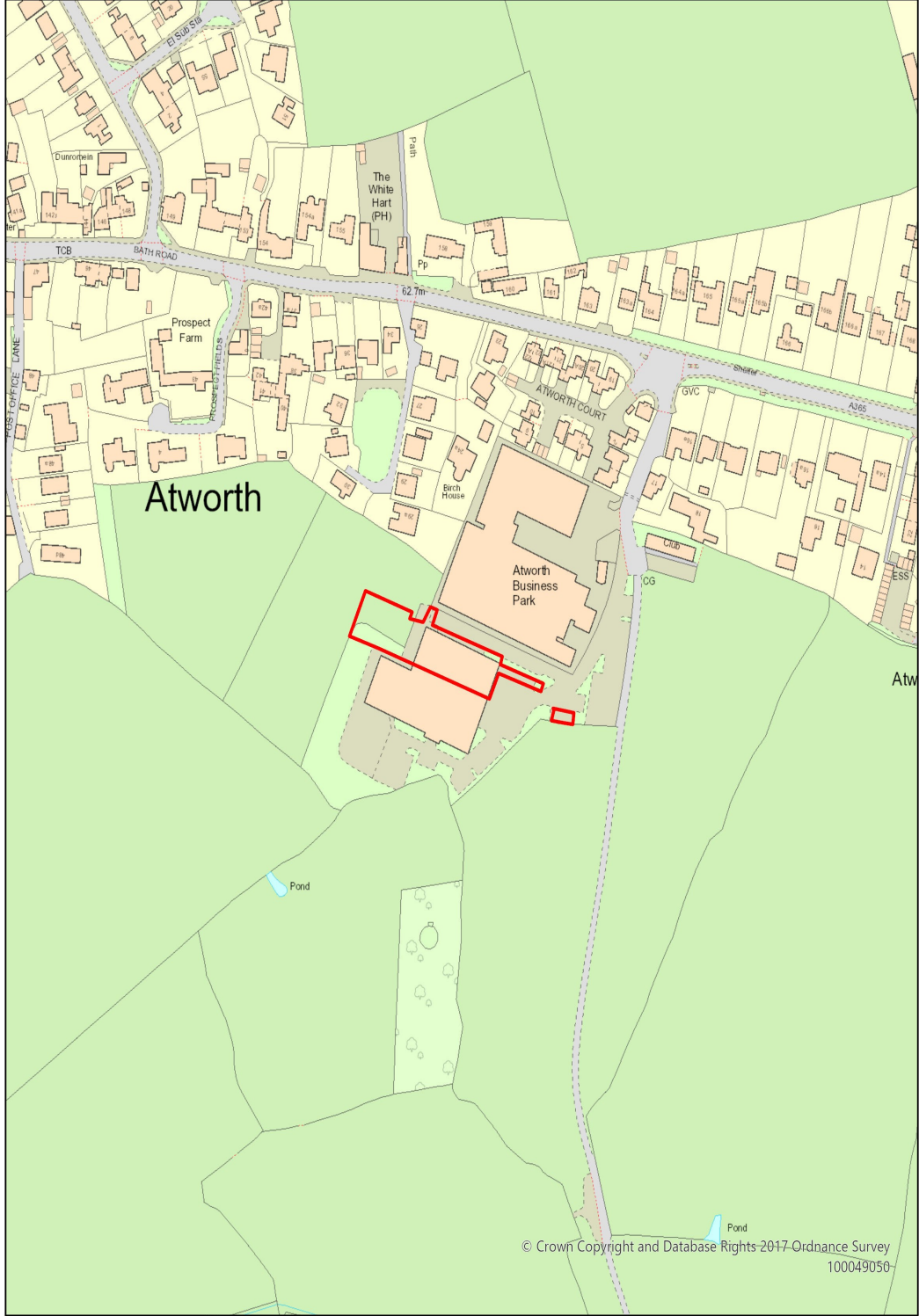
11. No construction works shall be undertaken outside the hours of 0700 to 1800 Monday to Friday and 0900 to 1600 on Saturdays and at no time on a Sunday or Bank Holiday.

REASON: In the interests of neighbouring amenity

Wiltshire Council

PL/2021/05520

Unit 8 Atworth Business Park,
Bath Road, Atworth, SN12 8SB



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Wiltshire Council
Planning Appeals
Monkton Park Office
Chippenham
Wiltshire
SN5 1ER

Your Ref:
Our Ref: APP/Y3940/W/18/3216228

04 June 2019

Dear Sir/Madam,

Town and Country Planning Act 1990
Appeal by Oliveford Ltd
Site Address: Unit 8, Atworth Business Park, Melksham, SN12 8SB

I enclose a copy of our Inspector's decision on the above appeal(s).

If you have queries or feedback about the decision or the way we handled the appeal(s), you should submit them using our "Feedback" webpage at <https://www.gov.uk/government/organisations/planning-inspectorate/about/complaints-procedure>.

If you do not have internet access please write to the Customer Quality Unit at the address above.

If you would prefer hard copies of our information on the right to challenge and our feedback procedure, please contact our Customer Service Team on 0303 444 5000.

Please note the Planning Inspectorate is not the administering body for High Court challenges. If you would like more information on the strictly enforced deadlines for challenging, or a copy of the forms for lodging a challenge, please contact the Administrative Court on 020 7947 6655.

The Planning Inspectorate cannot change or revoke the outcome in the attached decision. If you want to alter the outcome you should consider obtaining legal advice as only the High Court can quash this decision.

We are continually seeking ways to improve the quality of service we provide to our customers. As part of this commitment we are seeking feedback from those who use our service. It would be appreciated if you could take some time to complete this short survey, which should take no more than a few minutes complete:

https://www.surveymonkey.co.uk/r/Planning_inspectorate_customer_survey

Thank you in advance for taking the time to provide us with valuable feedback.

Yours faithfully,

Jenni Ball

Jenni Ball

Where applicable, you can use the internet to submit documents, to see information and to check the progress of cases through GOV.UK. The address of the search page is - <https://www.gov.uk/appeal-planning-inspectorate>



Appeal Decision

Site visit made on 9 April 2019

by JP Tudor Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 04 June 2019

Appeal Ref: APP/Y3940/W/18/3216228

Unit 8 Atworth Business Park, Bath Road, Atworth SN12 8SB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Oliveford Ltd against the decision of Wiltshire Council.
 - The application Ref 18/04589/FUL, dated 11 May 2018, was refused by notice dated 17 October 2018.
 - The development proposed is extension to existing building (Use Class B8), extension to service road, landscaping and associated works.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. Although the original applicant has since vacated the appeal site, the application and this appeal has proceeded on behalf of the freehold owner of the business park, who has a relevant legal interest in the property.
3. An updated version of the National Planning Policy Framework (the Framework) was published in February 2019, after the application was determined by the Council. However, as the alterations are minor, it was not necessary to revert to the parties for comment.

Main Issue

4. The main issue is whether the proposal would be in accordance with the spatial strategy for the area, including with reference to its effect on the living conditions of nearby residential occupiers.

Reasons

Spatial strategy

5. The Wiltshire Core Strategy (CS)¹ comprises a spatial strategy which aims to achieve a sustainable pattern of development by directing development to existing settlements. It does that through Core Policy 1: Settlement Strategy (CP1) and Core Policy 2: Delivery Strategy (CP2). The settlement strategy identifies 4 tiers of settlements: Principal Settlements; Market Towns; Local Service Centres; and, Large and Small Villages.

¹ Adopted January 2015

6. It is proposed to extend an existing building, which forms Unit 8 at the Atworth Business Park, on the edge of the village. Atworth is within the Melksham Community Area and is defined in the CS as a 'Large Village'. CP1 of the CS says that development at 'Large and Small Villages' will be limited to that needed to help meet the housing needs of the settlement and to improve employment opportunities, services and facilities. Although the appeal site is within an existing business park, it is outside the 'limits of development' of the village. CP2 of the CS indicates that development will not be permitted outside the 'limits of development' other than in circumstances permitted by identified 'exception policies' in the CS, which seek to respond to local circumstance and national policy.
7. One of the 'exception policies' is Core Policy 34: Additional Employment Land (CP34), which says that outside the Principal Settlements, Market Towns and Local Service Centres, developments will be supported subject to two sets of criteria, detailed at 'i-iv' and 'a-e'. Each criterion within the first set (i-iv) is followed by the word 'or', save for the last. That indicates that whilst it is necessary for at least one of those criteria to be met, it is not necessary that more than one or that all four are satisfied.
8. The Council takes the view that the proposal does not fully meet any of the criteria, listed from 'i-iv'. Both parties agree that criterion 'ii', which relates to farming and food production, is not met or relevant. The Council's view, in relation to criteria 'I' and 'iii', is that the proposal does not seek to expand an existing business on the edge of a larger settlement and does not relate to a new or existing rural based business, as the unit is unoccupied with the previous tenant having left during the course of the application process. It says that the proposal is speculative, as there is no defined end user.
9. As the second reason for refusal in the Council's decision notice refers to non-compliance with criterion 'iv', I will address that aspect. I agree that a proposal for a modest extension of one unit in a business park could not reasonably be considered of such importance as to be '*essential to the wider strategic interest of the economic development of Wiltshire.*' Therefore, I agree with the Council on that point but, as stated above, there is no requirement in CP34 for a proposal to meet all of the criteria listed from i-iv.
10. It seems to me that the most relevant criterion, in this case, is 'iii', which indicates that developments will be supported that '*are for new and existing rural based businesses within or adjacent to Large and Small Villages.*' However, the wording does not appear to indicate a requirement to identify a specific business that is going to occupy the development or that a business should already be in occupation. Moreover, the latter would be illogical as the policy would equally apply to the construction of a new building. Therefore, given that the development would be the extension of a unit, within an existing business park, adjacent to a 'Large Village', the development would be 'for new or existing rural based businesses'. Accordingly, I consider that the proposal satisfies criterion 'iii' of the first set of criteria.
11. In reaching that finding, I have considered the views of the Council and representations from third parties, as well as the appellant, regarding the interpretation of CP34 and its requirements. The supporting text to the policy acknowledges that: '*The evidence indicates that Wiltshire does not have land available in the right location at the right time to meet business needs and this*

could result in Wiltshire losing business to other locations'.² As a result, CP34 broadly supports the delivery of opportunities for the provision of employment land, in addition to that allocated in the CS, mostly within the Principal Settlements, Market Towns and Local Service Centres but also, outside those settlements, within or adjacent to Large and Small Villages, subject to additional limiting criteria, at 'a-e'.

12. The appellant has also drawn my attention to a planning permission relating to Land North West of Dunkirk Business Park at Southwick.³ That proposal related to the expansion of an existing rural business park, considered to be closely related to a Large Village, with the addition of two units. The relevant Council Officer's Report has been supplied and compliance with criterion 'iii' of CP34 was accepted. Whilst the Officer's Report also refers briefly to supporting evidence of demand for the type of units proposed, that does not appear to have been integral to its analysis of whether the proposal complied with CP34.
13. In any event, the appellant in the appeal before me has presented a reasonable level of evidence of demand for business units of the size proposed, as evidenced in a letter from a commercial property agent⁴ and other information regarding interest from local businesses. Similarly, although I do not agree with all of its conclusions, the Council Officer's Report relating to the appeal proposal recommended approval and found compliance with CP34.
14. Whilst I have found that, a criterion ('iii') in the first set of criteria is met, as required, it is still then necessary to consider whether the proposal meets the second set of criteria in CP34 of the CS, listed from 'a-e'. There, each criterion, save the last, is followed by the word 'and', which indicates that all of them need to be satisfied. The dispute between the parties centres on criterion 'b'. Criterion 'b' indicates that developments will be supported where, amongst other things, they do not '*detract from residential amenity*'. I will consider those aspects below.

Living conditions of nearby residential occupiers

15. The building and the associated service road would be extended to the west, outside the existing boundary of the business park and into part of an adjoining field, to the south of existing residential properties. The existing Class B8 use for storage or as a distribution centre would not change, but it would take place within an expanded building.
16. At present, vehicle movements associated with this part of the business park take place behind or between the buildings comprising the existing units, mitigating any effects on nearby residential properties. However, the proposal would extend the service road, beyond the elongated building and the footprint of units 6 and 7 and provide some additional parking spaces. The extended building, with its increased capacity, could also increase the potential number of vehicle movements, over and above that which serviced the unit in the past.
17. The extended service road would also incorporate a new turning head to enable vehicle manoeuvring, adjacent to a 'goods in/out' entrance and additional parking spaces on the northern side of the building. According to the appellant, the turning head would, at its closest point, be just 2 metres away

² Paragraph 6.9

³ 18/06221/FUL

⁴ Carter Jonas: Letter dated 30 August 2018

from the boundary of the rear garden of the dwelling at 29A Bath Road, the nearest house. There is an existing thicket of vegetation to the south of the garden boundary fence of that property, but a section of this would be removed, reducing its depth, to accommodate the turning head.⁵

18. I had the benefit of assessing the proposal both from the appeal site and from the garden of No 29A. The dwelling is located at the end of a quiet cul-de-sac, well away from the main road running through the village. Whilst the house is further away, the tranquil garden has patio and seating areas, including some towards its southern boundary, adjacent to the turning head. The close proximity of the turning head and service road to the garden would be likely to result in noise and disturbance from commercial and other vehicles accessing the appeal site and manoeuvring in the turning head. There would also be noise from vehicle engines and negative effects from vehicle fumes. That would significantly disturb the peace and enjoyment of occupiers of No 29a, when using their garden. It would also have some negative effects within the house, especially during the summer months when windows or doors to the garden are more likely to be open.
19. As part of the thicket would be removed to accommodate the turning head, any protection that it could provide would be reduced. The position of the proposed earth bund and associated planting would not assist in mitigating the adverse effects of the turning area close to the garden. The occupiers of No 29A have also strongly objected to the proposed development, principally because of vehicle noise and fumes.
20. The Council's appeal statement suggests that there would be negative effects on occupiers of the dwelling at 30 Bath Road, albeit to a lesser degree. However, as that property is to the north west and would be further away from the service road and turning head, I am satisfied that the effects would not be significant.
21. Although the appellant refers to the '*limited number of vehicles that are likely to be associated with this size of unit*', that is not quantified or evidenced in any meaningful way and, given that the future occupier of the site is unconfirmed, I do not find that submission persuasive. The appellant has also suggested, at the appeal stage, the possibility of an acoustic fence to be secured by condition, but limited details and little specific evidence about the efficacy of such an approach has been submitted. Given the position of the turning head there would also be little room for any additional planting. Restrictions on delivery and despatch times were suggested by the Council's Public Protection Officer to be secured by condition, but such a condition could not be too restrictive without potentially compromising efficient business operations at the site.
22. Furthermore, standard restrictions on operating hours, such as during the day and on Saturday mornings, appear to be based partly on an assumption that residential occupiers are more likely to be out of the house or at work during such hours, at least from Monday to Friday. However, that would not necessarily be effective in preventing harm to, for example, retired occupiers enjoying their garden or workers with less conventional working hours. Moreover, Saturday mornings are a time when people are reasonably entitled to expect some respite. Therefore, whilst I have considered if imposing

⁵ Figure 3: Landscape and Visual Impact Assessment (May 2017) prepared by Brian Wooding CMLI

conditions could make the proposal acceptable, given the close proximity of the turning area to the residential garden of No 29A, I am not persuaded that they would sufficiently mitigate the adverse effects.

23. I am aware that the application, which has led to this appeal, is a resubmission of a previous proposal⁶ refused for a different reason, relating to inadequate information about effects on protected species. However, that application was refused, and I do not have full details of the extent of the Council's reasoning, when considering that proposal with respect to effects on living conditions. Although the Council Officer's Report relating to the appeal proposal recommended approval, the Council's Planning Committee reached a different conclusion, including with regard to the effects on the living conditions of neighbouring occupiers. Therefore, whilst consistency in public decision making is important, it is also important and legitimate for me to apply my own planning judgement to this appeal proposal, based on the evidence before me, relevant development plan policies and any other material considerations, which is what I have done.
24. Therefore, I conclude that the proposed development would harm the living conditions of nearby residential occupiers at No 29A, with particular regard to noise, disturbance and fumes from vehicles. It follows, that the proposal conflicts with the CS spatial strategy, set out within CP1 and CP2, as it does not comply with criterion 'b' of 'exception policy' CP34. The proposal would also conflict with paragraph 127. f) of the Framework, which seeks to promote health and well-being and ensure a high standard of amenity for existing and future users.

Other Matters

25. Whilst approval was given for a similar extension to the adjacent unit 9⁷, that is further to the south with its service road and parking area beyond. Therefore, there would not be adverse effects from vehicles or any turning areas equivalent to the appeal proposal.
26. A number of objectors have raised a range of issues, in addition to those dealt with above, including effects on protected species. However, it is not necessary for me to consider those other matters in detail here, as I have dismissed the appeal on other substantive grounds.

Planning Balance and Conclusion

27. The CS and the Framework offer support for business and for a prosperous rural economy. Framework paragraph 83.a) encourages the sustainable growth of all types of businesses in rural areas both through conversion of existing buildings and well-designed new buildings.
28. Paragraph 84 of the Framework says that: *'Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by*

⁶ 17/05785/FUL

⁷ 16/09685/FUL

improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.'

29. The proposed development would offer some benefits, including an economic benefit in the provision of additional business and employment floorspace. However, the appellant describes the scale of the extension as relatively modest which would limit the extent of that benefit, relative to that already generated by the existing unit. It is also suggested that the extension of the service road and the turning head would improve the safety of vehicle manoeuvres within the site. However, that could potentially be achieved by an alternative proposal or design. Overall, those and other benefits associated with the proposal do not outweigh the harm that I have identified to the living conditions of nearby residential occupiers and the associated conflict with CP34 of the CS.
30. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

JP Tudor

INSPECTOR

DATED 26 MARCH 2020

**STEVEN ARTHUR ROGERS, RODERICK DONALD
TIMBRELL-WHITTLE AND CABOT TRUSTEES LIMITED**

and

WILTSHIRE COUNCIL

DEED OF VARIATION PURSUANT TO SECTION 106A OF
THE TOWN AND COUNTRY PLANNING ACT 1990

relating to **land at Atworth Business Park, Bath Road,
Melksham, Wiltshire SN12 8SB** (Planning Application
Number: **19/06790/FUL**)

**Head of Legal Services
Wiltshire Council
County Hall
Bythesea Road
Trowbridge
Wiltshire BA14 8JN
Ref: 127124**

DATED:

26 MARCH

2020

PARTIES

- (1) **Wiltshire Council** of County Hall, Bythesea Road, Trowbridge, Wiltshire BA14 8JN (the "Council"); and
- (2) [REDACTED] and **Cabot Trustees Limited** (company registration number 3183366) whose registered office is at Suite 1d The Crescent Centre Temple Back Bristol BS1 6EZ (the "Owners")

BACKGROUND

- (A) The Council is the local planning authority for the purposes of the Act in respect of land at Atworth Business Park Bath Road Melksham Wiltshire ("the Land") and by whom the obligations in the Initial Agreement as amended by this Deed of Variation and Discharge are enforceable
- (B) The Owners are the registered proprietors of the Land registered under title number WT85791 at the Land Registry
- (C) By virtue of the Wiltshire (Structural Changes) Order 2008 West Wiltshire District Council was dissolved with effect from the 1st April 2009 and its functions as Local Planning Authority transferred to the Council
- (D) The Owner entered into the Initial Agreement with West Wiltshire District Council as a prerequisite to the grant of planning permission reference W93/0116
- (E) The Owner has submitted a planning application reference 19/06790/FUL ("the Application") to the Council for retrospective change of use to B8 use and proposed extension to existing building (also for B8 use) and associated works at the Land
- (F) The Council resolved at its Western Area Planning Committee on 18 December 2019 to grant planning permission for the Application subject to the entering into of an agreement under section 106 of the Act and the Parties have therefore agreed that the Initial Agreement should be varied as follows

IT IS AGREED AS FOLLOWS

1. INTERPRETATION AND DEFINITIONS

1.1. In this Deed of Variation, unless the context otherwise requires:

"the Initial Agreement"	means the agreement dated 22 September 1994 made between Roderick Donald Timbrell-Whittle and Steven Arthur Rogers
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	trading as Braemon Holdings and West Wiltshire District Council relating to the Land
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1.2. In this Deed, unless the context otherwise requires:

1.2.1. References to clauses paragraphs and schedules are references to those in the Initial Agreement; and

1.2.2. Words and phrases whose meanings are not varied by this Deed of Variation have the same meanings as in the Initial Agreement

1.3 This Deed of Variation and Discharge is supplemental to the Initial Agreement which is enforceable by the Council and which binds each and every part of the Land.

1.4 This Deed of Variation and Discharge is entered into by the Parties pursuant to Section 106A of the 1990 Act, Section 111 of the Local Government Act 1972 Section 1 of the Localism Act 2011 and all other enabling powers

2. VARIATION TO THE INITIAL AGREEMENT

IT IS HEREBY AGREED between the Parties that from the date of this Deed of Variation and Discharge the Initial Agreement shall be varied by this Deed of Variation and Discharge and shall take effect on today's date and be construed as follows:

2.1 Clause 2(a) shall be discharged and shall have no effect

2.2 Clause 2(b) shall have the words "and B8" inserted after the words "B1 and B2"

2.3 The plan attached to the Initial Agreement shall be removed and replaced by the plan attached to this Deed of Variation and Discharge in order to reflect the correct boundary of the Land which is shown edged purple

2.4 The Parties agree that except as varied by this Deed of Variation and Discharge, the Initial Agreement shall remain in full force and effect

2.4 Nothing in this Deed of Variation and Discharge affects the Council's powers in respect of any antecedent breach or omission in relation to the Initial Agreement

3. REGISTRATION

This Deed of Variation and Discharge shall be registered as a local land charge by the Council under the Local Land Charges Act 1975

4. COSTS

The Owner covenants with the Council that on execution of this Deed of Variation and Discharge it will pay the Council's reasonable costs incurred in the negotiation, preparation and execution of this Deed of Variation and Discharge

5. THIRD PARTY RIGHTS

A person who is not named in this Agreement does not have any right to enforce any term of this Agreement under the Contracts (Rights of Third Parties) Act 1999

6. This Deed of Variation and Discharge is governed by and interpreted in accordance with the laws of England and Wales

7. It is agreed that the liability under this Deed of Cabot Trustees Limited shall be limited to the assets of the S Rogers SIPP2121 as at the date the said liability falls due for payment or performance (as the case may be) and for the avoidance of doubt it is agreed and declared that the Council shall have no right or recourse against any assets in which Cabot Trustees Limited have an interest otherwise than assets held in respect of S Rogers SIPP2121.

IN WITNESS whereof the Parties have executed this Deed of Variation and Discharge the day and year first before written

THE COMMON SEAL of)
WILTSHIRE COUNCIL)
was hereunto affixed in the presence of:)



SIGNED AS A DEED BY
STEVEN ARTHUR ROGEI
in the presence of:



SIGNA
NAME
ADDRI
OCCUPATION OF WITNESS



CALAG, SN11 0HW
FINANCE MANAGER

**SIGNED AS A DEED BY
RODERICK DONALD TIMBRELL-WHITTLE**
in the presence of:

SIGNATURE OF WITNESS

N
A
C

[REDACTED]

EXECUTED as a deed by
CABOT TRUSTEES LIMITED
acting by

.....
Director

in the presence of

Witness Signature

[REDACTED]

Witness Name (C

Witness Address ...SUITE 110, THE CRESCENT...

CENTRE, TEXAS 75001-2010

Witness Occup:

[REDACTED]



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1/500 at A2



	BHAEMON HOLDINGS
	Leaffield Marine Extension - Unit 8
	Leaffield Marine Extension - Proposed
vaughan hipscombe	DATE: 15/07/08
ARCHITECTS	DRAWING: 9L2018-1-10/08

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