

# AGENDA

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**Meeting:** Western Area Planning Committee

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

**Date:** Wednesday 9 March 2022

**Time:** 3.00 pm

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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](mailto:Ellen.ghey@wiltshire.gov.uk)

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

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## 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	

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## 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

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## **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 7 March 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.**

## **Recording and Broadcasting Information**

Wiltshire Council may record this meeting for live and/or subsequent broadcast. At the start of the meeting, the Chairman will confirm if all or part of the meeting is being recorded. The images and sound recordings may also be used for training purposes within the Council.

By submitting a statement or question for an online meeting you are consenting that you will be recorded presenting this, or this may be presented by an officer during the meeting, and will be available on the public record. The meeting may also be recorded by the press or members of the public.

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**County Hall, Trowbridge**  
**Bourne Hill, Salisbury**  
**Monkton Park, Chippenham**

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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 - 28*)

To approve and sign as a correct record the minutes of the meeting held on 16 February 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 7 March 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 2 March 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 4 March 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 29 - 30*)

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 **20/10440/FUL - Kingdom Avenue, Westbury** (*Pages 31 - 70*)

Full planning application for the construction and operation of a 7.5MW gas peaking generation plant to include: an electrical substation, gas kiosk, gas engines, access, CCTV, lighting and associated works.

7b **PL/2021/06752 - 6 Marshmead, Hilperton** (*Pages 71 - 90*)

Removal of existing garage/kitchen extension & erection of three-bedroom end terrace dwelling.

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

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#### MINUTES OF THE WESTERN AREA PLANNING COMMITTEE MEETING HELD ON 16 FEBRUARY 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 Andrew Davis, Cllr Edward Kirk, Cllr Stewart Palmen, Cllr Antonio Piazza, Cllr Pip Ridout, Cllr David Vigar and Cllr Suzanne Wickham

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

David Cox, Benjamin Fielding, Verity Giles-Franklin, Kenny Green, Sarah Marshall and Steven Sims.

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#### 10 **Apologies**

There were no apologies for absence from any Committee Members but apologies from Cllr Tony Jackson, a Substitute Member of the Committee, were noted.

#### 11 **Minutes of the Previous Meeting**

The minutes of the previous meeting of the Western Area Planning Committee held on 19 January 2022 were considered. Following which, it was:

##### **Resolved**

**The Committee approved the minutes of the previous meeting of the Western Area Planning Committee held on 19 January 2022 as a true and correct record.**

#### 12 **Declarations of Interest**

Cllr Ernie Clark declared a pecuniary interest in Agenda Item 7b by virtue of his property neighbouring the application site boundaries, and as such, he would leave the meeting as a member of the Committee during the Agenda Item.

Cllr Edward Kirk declared a non-pecuniary interest in Agenda Items 7b and 7c and stated that he would not participate in the debate or vote for either Agenda Items.

Cllr Antonio Piazza declared that he had been lobbied with regard to Agenda Item 7b.

13 **Chairman's Announcements**

The Chairman made those in attendance aware of the Covid regulations that were in place for the meeting and asked that all phones were switched off or turned to silent mode to minimise any potential disturbances.

14 **Public Participation**

The Chairman explained the rules of public participation and the procedure to be followed at the meeting.

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

15 **Planning Appeals and Updates**

The Chairman invited Kenny Green, Development Management Team Leader, to update the Committee on any completed and pending appeals as per the appeals report included within the Agenda Pack.

It was confirmed that one appeal decision had been received for Application 19/08146/VAR, Land at Trowbridge Lodge Park, an appeal that related to six additional residential caravans being sited within the park.

It was explained that the appealed development had been refused by a substantive lack of detail submitted by the applicant and that three refusal reasons were cited within the refusal decision dated 8 April 2020. The decision outlined the lack of a tree constraints plan, tree survey and arboricultural impact assessment; all of which were considered essential to enable the Council to full assess the potential impact of the proposed additional six residential caravans on existing trees, the natural landscape and the ecological value, and potential impacts on protected species. In addition, the Council refused the full planning application as it was only supported by an indicative site plan that was not found to be acceptable by officers as it was not possible to fully assess the potential impacts that the six additional caravans would have on the living conditions of existing and future occupants in terms of outlook, privacy and visual amenity. There was also a lack of detail submitted in terms of parking provision.

An appeal was subsequently lodged by the applicant, but it was help up substantively by the COVID pandemic and the planning inspectorate did not issue an appeal start letter until 25 August 2021. Officers defended the appeal and maintained that insufficient information had been provided on the siting of the additional caravans and the appellant had failed to demonstrate that the increased capacity would be implemented in such a way as to avoid further loss or damage to trees (natural habitat) and/or adversely impact on residential amenity. Through the appeal process, officers recommended that the appointed planning inspector seek Natural England's advice on the effect of the development proposed on the bats, particularly those associated with the Bath



and Bradford-on-Avon Bats Special Area of Conservation (SAC), and to secure a detailed site masterplan. Natural England provided the planning inspector with comments in early January 2022 and a detailed site plan submission was sent to the planning inspector which was then sent to the Council to provide comments.

The appeal was allowed with the appointed planning inspector being suitably informed by the late submission of the detailed site plan and imposed conditions to define the terms of the allowed appeal. Members were advised that applicants are expected to submit applications that are fully supported with plans and relevant supporting documents to illustrate what is proposed, and when they do not, that they should expect a refusal. It should be noted that the applicant had been asked numerous times to submit a detailed plan by the case officer whilst the application was with the Council, but they had refused to comply.

Members were advised by Kenny Green that as with any appeal, there was a cost incurred to the Council in defending the Council's position through the dedicated time spent by the planning case officer to prepare a statement and for the Council's planning appeals team in terms of time taken uploading documents and sending correspondence to interested parties and to the planning inspectorate. Kenny Green also informed the Committee that there was also a wider public cost beyond the Council, as Natural England had been required to provide expert advice to the planning inspector. Members expressed concern about this appeal and the dedicated resource that had to be given to a case that should have been properly supported when the application was lodged with the Council.

After seeking a legal view from Sarah Marshall, a Senior Solicitor within the Council, the Committee suggested that a letter carrying Parvis Khansari's name should be written and sent to the Corporate Leadership Team and/or the Secretary of State outlining the costs incurred by the Council in defending appeals and to suggest a change to the National Planning Policy Framework (NPPF) to place a much heavier burden on applicants that do not submit the requisite level of detail with applications.

Following which, it was:

### **Resolved**

**The Committee noted the appeals report for the period 7 January 2022 to 4 February 2022.**

**The Committee requested that a letter be sent by Parvis Khansari to the Secretary of State highlighting the cost implications of defending the appeal for 19/08146/VAR (reference APP/Y3940/W/20/3260751).**

## 16 **Planning Applications**

The Committee considered the following applications:

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

Steven Sims, Senior Planning Officer, presented the report and highlighted that an additional late representation had been received with regard to parking enforcement, however it was noted that this letter raised nothing new and that the relevant matter was covered within the report.

It was noted that the application had been deferred from the previous meeting of the Committee pending additional information alongside a site visit which occurred on the morning of the meeting, 16 February 2022. The Case Officer clarified that the main property had three bedrooms, not four, which had been previously reported at the January Committee meeting, and that there was one bedroom within the annex. It was highlighted that an additional condition (no.4), as referenced on Page 27 of the Agenda Pack had been added and was recommended by officers following further discussions held with the Council's Highways Officer.

Key issues highlighted included: the principle of development; impact on heritage assets; impact on the amenity of neighbouring residents; highways/parking issues; and drainage issues.

Members of the Committee had the opportunity to ask technical questions to the officer. The main points of focus included: the recommended condition to retain the integral garage within the subject building for garaging/storage purposes and not allow it to be converted to habitable accommodation; the appropriateness of removing the additional Class A permitted development rights; and the enforceability of conditions.

In response, Planning Officers clarified that an additional planning condition removing Class A permitted development rights to ensure the property maintained adequate car parking provision would be reasonable given the site circumstances. When asked about condition breaches, it was explained that there was always a risk of conditions being breached, however if reported, breaches would be investigated by the Planning Enforcement Team, but it was explained that planning enforcement was a discretionary service and taking formal enforcement action must first be in the public interest.

Thereafter, Councillor Bill Parks, Vice-Chairman, moved the officer recommendation as detailed in the report with the addition of a condition to remove Class A permitted development rights.

During the debate Members discussed the benefits and clarity that the site visit had provided.

At the conclusion of the debate, a vote was taken on the motion for approval. Following which, it was:

**Resolved**

**The Committee APPROVED the application as per the officer's recommendations subject to the following conditions:**

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

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

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

- 5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending those Orders with or without modification), no development within Part 1, Class A shall take place on the dwelling house hereby permitted or within the curtilage.**

**REASON: In the interests of the amenity of the area and to enable the Local Planning Authority to consider individually whether planning permission should be granted for additions, extensions or enlargements.**

## 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: <http://www.wiltshire.gov.uk/planninganddevelopment/planningpolicy/communityinfrastructurelevy>

*Councillor Ernie Clark departed the meeting as a Member of the Committee.*

18 **PL/2021/03253 - Lion and Fiddle, Trowbridge Road, Hilperton, Trowbridge, BA14 7QQ**

### Public Participation

Mr Gordon O'Brien, neighbouring resident, spoke in objection to the application.

Mr Ernie Clark, neighbouring resident, spoke in objection to the application.

Ms Joy Singer, applicant, spoke in support of the application.

Verity Giles-Franklin, Senior Planning Officer, introduced the report which recommended the issuing of planning permission to be delegated and deferred to the Head of Development Management granted, following the sealing of a s106 legal agreement, for the erection of two detached dwellings, garages and associated works.

Reference was made to the Committee Member site visit that had been scheduled on the morning of the meeting, 16 February 2022. The Case Officer referenced the presentation slides, and the application proposal was set out in detail, including drawing Members' attention to the fact that part of the site was within the defined settlement limits (and one of the proposed dwellings), whilst the other part and about two thirds of the other dwelling would be outside the limits.

The Case Officer explained the proposed site layout plans and the vehicular access point that would be gained through the existing public house car park. It was also highlighted that one plum tree adjacent to the HILP30 public right of way footpath would be removed but that officers had no objections to such work. Members were also advised that a parcel of land owned by the applicant (and kept separate from the two proposed dwellings/plots) would be safeguarded and dedicated for biodiversity betterment to support ecology interest and to be secured by a s106 legal agreement. Members were further advised that the development would require obligations to secure the requisite contribution as set out by the Trowbridge Bat Mitigation Strategy as well as CIL.

The Committee was informed that third party/Parish Council concerns had been raised regarding the overdevelopment of the site, however officers explained that the proposed two dwellings would have adequate amenity/garden space and the separation distances to neighbouring properties was considered acceptable.

No objections had been raised by the Council's Arboricultural, Ecology, Highways or Rights of Way officers and it was noted that the site was surrounded by existing residential development.

Key issues highlighted included: the principle of development; impacts on the character of the area and designated heritage assets; impacts on neighbouring amenities for both future and existing occupiers; ecology interests; and highway safety.

Members of the Committee had the opportunity to ask technical questions to the officer. The main points of focus included: the safeguarded coppice/grassland area to the rear of the site; the Trowbridge Bat Mitigation Strategy; and details of the s106 legal agreement.

In response, the officer confirmed that the securing of the s106 legal agreement and biodiversity enhancement plan would ensure the protection to the grassland parcel and would deliver biodiversity betterment.

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

*Mr Ernie Clark departed the meeting as both a member of the public and a Member of the Committee.*

Cllr Edward Kirk had called in the application on behalf of Cllr Ernie Clark, Local Unitary Member, however as Cllr Kirk had declared an interest in the Agenda Item and as such, would not participate in the debate and vote, Cllr Stewart Palmen moved that the application be approved as per officer recommendations.

During the debate members discussed the impact on neighbouring amenities, as well as the trees covered by the TPO within the application site, and the car parking arrangements. Officers detailed the separation distances from the

proposed dwellings to the neighbouring properties, noting that there would be adequate separation distance and that the proposal would exceed the minimum standard distance of 10.5 metres between the dwelling and boundary shared by dwellings. Additionally, it was confirmed that there would not be any window-to-window conflicts given the extensive and well-established landscaped site boundaries which were subject to TPO. With regard to tree protection, officers advised that a separate condition could be included to ensure greater control over protecting and/or re-planting trees that were removed or became diseased and therefore died. It was further confirmed by officers that there was adequate on site car parking for both the application proposal and that the public house would retain sufficient car parking to satisfy the Council's parking standards.

Other points debated were: the five-year land supply and Hilperton Neighbourhood Plan and the safeguarding of the public Right of Way footpath. Officers explained the five-year land supply deficit and the titled balance reasoning, and that in the absence of any substantive and demonstrable harm, the NPPF directed LPAs to approve new housing as set out within Paragraph 11 of the NPPF. Officers also confirmed that an additional condition could be imposed to secure bollards or other suitable means of safeguarding users of the Public Right of Way along part of the vehicular entry to the site under a construction management plan condition requirement.

At the conclusion of the debate a vote was taken on the motion to endorse the recommendation to secure a s106 and thereafter delegated authority to officers to approve the application with the addition of the two conditions proposed. Following which, it was:

### **Resolved**

**The Committee APPROVED 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 the report; and subject to the following conditions:**

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

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

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

**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 the 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 development shall commence on-site (including any site clearance works), until a Construction Method Statement, which shall include the following:**

- a) the parking of vehicles of site operatives and visitors;
- b) loading and unloading of plant and materials;
- c) storage of plant and materials used in constructing the development;
- d) the erection and maintenance of security hoarding
- e) wheel washing facilities;
- f) measures to control the emission of dust and dirt during construction;

- g) a scheme for recycling/disposing of waste resulting from demolition and construction works;**
- h) measures for the protection of the natural environment.**
- i) hours of construction, including deliveries**
- j) the design specification and installation of a permanent means of boundary site protection for the public right of way footpath HILP30, such as the provision of bollards or another means of safeguarding the open stretch of HILP30 adjacent to the Lion and Fiddle car park, which shall be put in place prior to the construction works and thereafter be retained and maintained for the lifetime of the development has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be complied with in full throughout the construction period. The development shall not be carried out otherwise than in accordance with the approved construction method statement.**

**REASON: To minimise detrimental effects to the neighbouring amenities, the amenities of the area in general, detriment to the natural environment through the risks of pollution and dangers to highway safety, during the construction phase.**

- 13. Should any tree(s) on the site or along the site boundary within the control of the applicant, be removed or become damaged or diseased, they shall be replaced with native tree specimen(s) with the exact species and planting stock details to be submitted to and approved in writing by the Local Planning Authority and thereafter, be planted within the next planting season.**

**For most cases, all replacement tree(s) shall be planted at or as close as possible to the position of the felled/replaced tree(s) insofar as it is reasonably practicable.**

**The replacement tree shall be properly maintained thereafter, and should any replacement tree(s) be removed or become damaged or diseased, they shall be replaced in the next planting season with the same agreed species. If a variation in species is required due to disease, the prior written agreement must be obtained from the Local Planning Authority before the replacement is planted.**

**REASON: To ensure that trees are replaced for the benefit of neighbouring amenity, visual amenity and character and appearance of the area and for ecology interest.**

- 14. 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.

**15.** 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

**16.** 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

**17.** 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.

19 **PL/2021/05520 - Unit 8, Atworth Business Park, Bath Road, Wiltshire, BA12 0AN**

#### Public Participation

A statement in objection of the application was received from Mr Mike Fayers neighbouring resident, prior to the meeting, and was read out by a Democratic Services Officer.

Ms Becky Stevens, applicant, spoke in support of the application.

David Cox, Senior Planning Officer, presented the report which recommended that the Committee delegates and defers authority to the Head of Development Management to secure a s106 deed of variation legal agreement to bind the subject property and site to the proposed revisions and to update the agreement to reflect the proposed change of use to light industrial (Class E), and to secure the appropriate signatures of the landowners to complete the landscaped bund within 3 months of the completion of the rear western lean-to-extension, and thereafter to grant planning permission subject to conditions, for a 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.

Reference was made to the presentation slides (Agenda Supplement 1) and the planning history of the site, which included a dismissed appeal. It was confirmed that numerous site visits had been undertaken by planning and public protection officers which had been useful to gain an appreciation of how the subject property operated and used electric forklifts when transporting bulk material from the front of the site. The presence of the internal buffer shutter doors was explained, which in addition to the electric forklifts being relatively quiet and the completed landscaped bund, would ensure that the operations within the subject property would not be harmful to nearby residences.

Key issues highlighted included: principle of development; impact on neighbouring amenity; the legal agreement requirements; and use of planning conditions.

Members of the Committee had the opportunity to ask technical questions to the officer. The main points of focus included: the completion and ownership of the bund; the drainage strategy; the potential conditioning of the use of the buffer shutter doors; and noise concerns.

In response, the officer clarified that the bund was owned by the freeholders of the business park and not the applicants. However, officers had obtained a written undertaking that the respective owners would sign up to a s106 modification to secure the bund completion within three months of the rear extension being completed and to update the agreement to reflect the proposed change of use. In response to a query raised about the drainage strategy, it was confirmed by officers that the Council's drainage authority had raised no comments to the extant permission which allowed the extension to be built and that this application proposal did not necessitate a drainage strategy on its own. Officers explained that a condition that would require the opening of one door and the closing of the plant doors would be difficult to enforce, however it was highlighted that the application had been through a lengthy consultation with the Public Protection Team who had raised no objection to the proposed in/out door, and did not seek to impose such a condition.

Local Unitary Member, Cllr Trevor Carbin, addressed the Committee and spoke to the complexity of the application and the historic issues associated with it. Cllr Carbin noted his concerns with regard to noise leakage impacting on neighbouring amenities through the doors and acknowledged the work done by officers.

Cllr Andrew Davis moved to approve the application in line with officer recommendations.

During the debate Members commended officers on the comprehensive list of planning conditions.

At the conclusion of the debate a vote was taken on the motion to approve in line with officer recommendations. Following which, it was:

### **Resolved**

The Committee **APPROVED** that authority be delegated and deferred 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.

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 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. Within 3 months of the completion of the rear (western) lean-to extension and installation of the bunded tank, the bund as shown on the proposed site plan VL2020/12/04 B shall be fully completed on site.

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

**8. 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.**

**9. 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**

**10. 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.

**11. No materials, goods, plant, machinery, equipment, finished or unfished 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

**12. 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

20 **Urgent Items**

There were no urgent items.

(Duration of meeting: 3.00 - 5.20 pm)

The Officer who has produced these minutes is Ellen Ghey of Democratic Services, direct line 01225 718259 x18259, e-mail [Ellen.ghey@wiltshire.gov.uk](mailto:Ellen.ghey@wiltshire.gov.uk)

Press enquiries to Communications, direct line ((01225) 713114 or email [communications@wiltshire.gov.uk](mailto:communications@wiltshire.gov.uk)

**Wiltshire Council**  
**Western Area Planning Committee**  
**9<sup>th</sup> March 2022**

Planning Appeals Received between 04/02/2022 and 25/02/2022

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Appeal Start Date	Overtake at Cttee
PL/2021/06935	30 St Michael's Road Melksham, Wiltshire	Melksham	Change of use of land to domestic curtilage with erection of fence.	DEL	Written Representations	Refuse	11/02/2022	No

Planning Appeals Decided between 04/02/2022 and 25/02/2022

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Appeal Decision	Decision Date	Costs Awarded?
20/11515/OUT	Land South of Sandhole Lane, Westbury	Westbury	Outline planning permission for demolition of existing outbuildings and the development of up to 67 dwellings with associated access and highways works, drainage and attenuation, open space, play area, allotments and landscaping (access to be determined)	DEL	Inquiry	Refuse	Allowed with Conditions	08/02/2022	None
21/02064/FUL & 21/02003/LBC	Manvers House 3 Kingston Road Bradford on Avon BA15 1AB	Bradford on Avon	Erection of two storey building incorporating ground floor parking and an apartment above.	DEL	Written Reps	Refuse	Allowed with Conditions	15/02/2022	None

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## REPORT FOR THE WESTERN AREA PLANNING COMMITTEE

<b>Date of Meeting</b>	9 March 2022
<b>Application Reference</b>	20/10440/FUL
<b>Site Address</b>	Plot D2, Land at Kingdom Avenue, Westbury
<b>Proposal</b>	Full planning application for the construction and operation of a 7.5MW gas peaking generation plant to include: an electrical substation, gas kiosk, gas engines, access, CCTV, lighting and associated works.
<b>Applicant</b>	Eclipse Power Generation Ltd
<b>Town / Parish Council</b>	Westbury Town Council
<b>Electoral Division</b>	Westbury Central – Cllr Matthew Dean
<b>Grid Ref</b>	385687 - 152383
<b>Type of Application</b>	Full Planning Application
<b>Case Officer</b>	David Cox

### Reason for the application being considered by Committee

Prior to the May 2021 local election, this application was 'called in' for the elected members to determine at the request of Russell Hawker the former local ward member. Following his election, the call-in was ratified by Cllr Matthew Dean should officers be minded to support the application to enable the elected members to consider the following:

- The principle of the development and compliance with adopted policies
- The environmental impacts (particularly) air quality and cumulative 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.

### 2. Report Summary

The key determining planning issues are considered to be: The Principle of Development, Supporting Energy Supply and Impact on Climate Change/Carbon Neutrality, Environmental Impacts (especially air quality), Neighbouring Impacts; Highway Impacts; and Impact upon the setting of a local Heritage Asset, flood risk and ecology impacts

### 3. Site Description

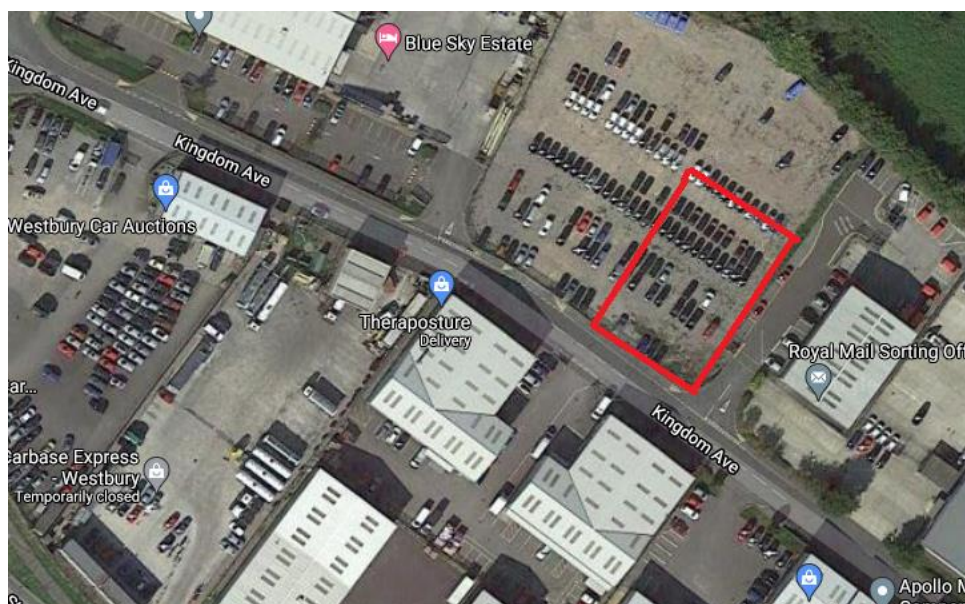


The red lined extent of the application site is shown above left – which refers to a 0.1-hectare parcel of land that is currently formed as hardstanding and is located on the north side of Kingdom Avenue within the established settlement limits of Westbury and within the Brook Lane and North Acre Trading Estate (which is an existing Employment Allocation site). As the map insert reveals by way of purple hatching for the employment land allocation, readers can identify several neighbouring buildings which are existing industrial units.

The nearest residential properties to the site (shown as a black dot below) are about 220 metres distant and separated by the Royal Mail sorting office and Storridge Road – which is the main thoroughfare serving the industrial estate as shown below:



The application site is not at risk of flooding (being flood zone 1) and when last visited by the case officer, it was used as car parking space for a car auctioneering business which operates from a unit approximately 100 metres to the west (as shown on the google map image below). At the time of the case officer's first site visit (on 14 January 2021), the application site was full of parked cars of different models. However, a Google Street view image (dated April 2021) reveals that the site was mainly occupied by British Gas vans.



Google Aerial image of the site circa 2021



#### 4. Planning History

W97/0903/OUT – Industrial Park (outline) – Approved with conditions

W/00/00447/REM - Erection of industrial units (Use Classes B1, B2, B8) car parking and infrastructure – approved with conditions

W/00/00825/FUL - Removal of condition 12 of outline planning permission W97/0903/OUT and condition 10 of outline planning permission W99/1499 (requirement to include adequate access and land for the provision of a rail terminal) – Approved with conditions

W/04/01865/REM - Factory and offices – Approved with conditions

W/08/01844/FUL - Proposed B2 and B8 units with car parking – Approved with conditions

There have been 3 specific planning permissions granted for this site for industrial units since 2000 but none of them have been implemented.

It is also worth recording here that across Wiltshire, the Council has considered and approved several gas-fired powered plants since the adoption of the Core Strategy in 2015. These include: -

**15/08809/FUL** - Proposed standby generator compound to include steel acoustic lined containers, external fuel tanks, transformers and acoustic fencing, in order to provide backup power to the National Grid – Roundponds Farm, Shurnhold Melksham - Approved at the WAPC on 16 March 2016 subject to conditions.

**17/10343/FUL** - Proposed installation of a 7.5MW flexible gas-fired power generation plant with associated works and infrastructure - Land at Clark Avenue Porte Marsh Industrial Estate, Calne - Approved by officers using delegated powers subject to conditions 22 Dec 2017.

**17/10832/FUL** - Proposed installation of a 7.5MW flexible gas-fired power generation plant with associated works and infrastructure - Land at Riverside Mot Centre Bradford Road, Melksham - Approved by officers using delegated powers subject to conditions 4 July 2019.

**18/10082/FUL** - Proposed demolition of existing building and installation of a 7.5MW flexible power generation plant with associated works and infrastructure - Unit 1 Lanes Farm Marlborough Road, Royal Wootton Bassett - Approved by officers using delegated powers subject to conditions 14 June 2019.

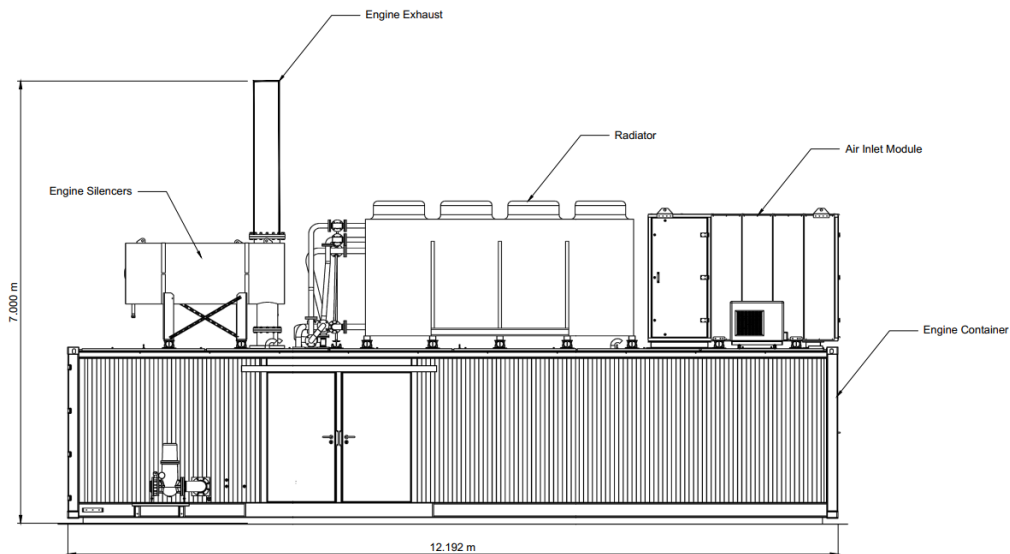
**19/10947/FUL** - Installation of a temporary (25 years) Gas-Powered Standby Generation Facility, Ancillary Infrastructure and Equipment and Access - Land at Hawkeridge Road, Westbury – Approved by officers using delegated powers subject to conditions 1 July 2021.

#### 5. The Proposal

This application seeks full planning permission for the construction and operation of a 7.5MW gas peaking generation plant, to include an electrical substation, gas kiosk, gas engines, access, CCTV, lighting and associated works.



Proposed Site Plan



Proposed Gas Engine Elevation plans

The 5 proposed gas engines would measure approximately 12.2 metres long by 3 metres wide. The main steel container and plant would be approximately 4.9m high, with an exhaust stack of 7 metres height. The Electrical Substation building would be approximately 3.5m high with the gas kiosk and oil tank approximately 2.5m and 2.1m high. The existing palisade fencing on the southern and eastern boundaries would be extended to enclose the site from the adjacent (and remaining) car parking area.

The supporting planning statement for this application explains on pages 7-8 that:

*“Gas-fired peaking plants are power plants designed to balance the fluctuating power requirement in the electricity network and operate during periods of high-level demand for electricity or shortfalls of electricity supply.*

*This demand and supply variation is due to the increase in renewable energy sources (wind and solar) connected to the electricity grid as part of the UK's effort to cut CO2 emissions. As such, these sometimes intermittent and unpredictable renewable sources of power pose a risk to increased fluctuations in energy supply.*

*The Department for Business, Energy & Industrial Strategy stated that in the first quarter of 2020 renewable energy made up 47% of the UK's electricity generation.*

*Peaking power plants provide important balancing services where weather conditions prevent output either when the wind isn't blowing, or the sun isn't shining. Peaking plants address this imbalance and reduce stress on the electricity grid, providing power stability – to potentially avoid blackouts and maintain the security of electricity supply.*

*The peaking plants operate in standby mode when not in use and are called to operate by the electricity grid when there is a demand to supply electricity.*

*The development will be supported with the provision of a service yard large enough to serve an HGV.*

*The proposed development would support up to 6 jobs at G2 Energy/Eclipse Energy Generation with 3 engineers performing weekly inspections and general maintenance duties throughout the year. Further to this, the leasing of the land for the proposed development provides an additional funding stream to financially support the car auction business.*

*A new access to serve the development from Kingdom Avenue is proposed and is shown on drawing ADC2420-DR-001-P5 (Proposed Access Junction Layout). The junction shows appropriate visibility splays of 2.4m x 43m and a 8m Footway Crossover Type Access. Drawing ADC2420-DR-051-P4 (Swept Path Analysis) shows that it is possible for a 18m low loader to turn both left and right into the site safely. A Construction Traffic Management Plan has also been prepared and is submitted as part of the planning application, it provides further information in relation to the construction phase of the development and details:*

- The proposal timescales and vehicles associated with the proposed development including likely sizes and frequency.*
- The suitability of the site access; and*
- Proposed routing and onsite arrangements”.*

*The Gas Engines as proposed [would accommodate] the following elements Engine Container; Air Inlet Module, Radiator, Engine Exhaust; and Engine Silencer. The engines [would] extend 12.2 metres in length and to the top of exhaust reach 7 metres. The engines [would be] housed in a steel container finished Green (RAL 6018). Details of the Gas Engines can be found on drawings G086-28-05 Rev 0 - Gas Engine Elevation (with stack) and G086-28-04 - Gas Engine Plan and Isometric.*

*The Gas Kiosk proposed [would] be 5.6metres length by 2.5m width reaching a height of 2.9 metres... [and would] be constructed of Glass Reinforced Plastic and be finished in Hollybush Green 14-C-39 BS4800 in a*

gelcoat. Details of the Gas Kiosk are shown on drawing G086-28-06 Rev O - Gas Kiosk Plan and Elevations.

The Electrical Substation [would be] located toward the front of the site [and would be] 15 metres in length by 3.5 metres in width...[and] 3.5 metres in height. The substation [would] house a HV Switch Room, a Control Room, a Meter Room and a DNO Room. The substation [would] be constructed of Glass Reinforced Plastic and be finished in Hollybush Green 14-C-39 BS4800 in a gelcoat. Details of the substation are shown on drawings G086-28-07 Rev O – Electrical Substation Plan and G086-28-08 Rev O - Electrical Substation Elevations.

The oil tanks are [proposed to be] 6 metres in length by 2.1 metres in width. The tanks would be 1.6 metres in height... [and would comprise] two chambers for capacity for 500ltrs of clean and dirty oil. The tanks would be constructed of steel and finished in Hollybush Green. Details of the oil tanks are shown on drawing G086-28-09 Rev O - Oil Tanks Plan and Elevations.

The Transformers proposed are 1.8m in length by 1.9m in width with a height of 2.2 metres. The transformers [would] be painted in dark [admiral] grey. Details of the transformers are shown on drawing G086-28-10 Rev O – Transformer.

The boundary of the site is proposed to consist of silver steel palisade fencing and gate to match the existing landowner boundary fence. Details of which are shown on drawing G086-28-12 Rev O - Gate and Fence Elevation.

The CCTV / Lighting columns are proposed to be located in the four corners of the site into the development. The columns are proposed to [be] circa 4 metres in height. Details of which are shown on drawing G086-28-11 Rev O - CCTV and Lighting.

The application has been supported by the following documents: -

Planning Statement – dated November 2020  
Tetra Tech – Air Quality Assessment – dated October 2020  
Avian Ecology Ecological Assessment Report – dated 29 October 2020  
Updated Ecology Statement – dated 13 November 2020  
Construction Traffic Management Plan – dated November 2020  
Heritage Statement – dated November 2020  
Tetra Tech – Air Quality Assessment – dated February 2021  
Tetra Tech – Air Quality Assessment – dated April 2021  
Noise Statement – dated 23 February 2021  
Tetra Tech (784-A118713) Response to noise concerns Statement – dated 12 May 2021  
Supplementary Noise Document “J420 SuSi Container Concept Review” – dated 6 July 2016  
Biodiversity Enhancement Strategy – dated 12 September 2021 and updated 20 October 2021

## **6. Planning Policy**

### National Context:

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

National Policy Statements and Policy Documents & Guidance

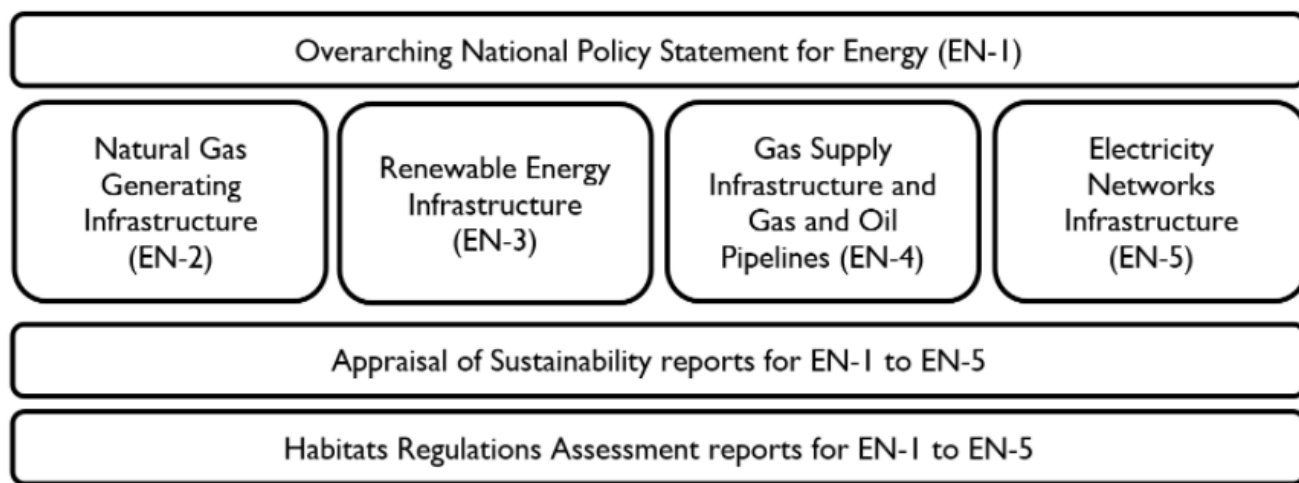
National Policy Statement for Energy (EN-1) (July 2011) presented to Parliament pursuant to Section 6(9) of the Planning Act 2008.

National Policy Statement for Fossil Fuel Electricity Generating Infrastructure (EN-2) (July 2011)

The Energy White Paper 'Powering our net zero future' (December 2020)

Net Zero Strategy: Building Back Greener (October 2021)

It should be appreciated also that the government has recently held an inquiry on the draft energy national policy statements (as referenced above and below) and that the House of Lords is scheduled to consider the Draft September 2021 Overarching National Policy Statement for Energy (EN-1) before the Spring – which was laid before both Houses in September 2021. The draft is a lengthy publication, but it continues with the observation that “gaseous fuels have a key role in the UK energy landscape, accounting for around 28% of primary energy demand in 2019. They are used in the domestic sector for heating and cooking; in the industrial sector, as a source of energy and as a feedstock and, in the power generation sector, as a reliable source of flexible generating capacity” (para 3.4.1).



The draft Government publication leads on to stress that “We need a diverse mix of gas supply infrastructure including pipelines, storage and reception facilities in order to meet our energy objectives. Our gas infrastructure must, amongst other things, be sufficient to:

- meet ‘peak’ demand for gas. Gas market participants may aim to have some “redundancy” in their supply arrangements, above the minimum amount to meet peaks, to manage the risk that other capacity may not be available (for example, where undergoing maintenance)
- allow for a sustained delivery of large volumes of gas, for example, demand over a particularly cold winter
- provide access to the most competitive gas supplies. Because the price of gas sources will vary over time, this leads to some redundancy in gas supply infrastructure. Market participants may therefore see distinct value in having access to gas from different sources – imports by pipeline, imports as LNG, and gas from storage (especially close-to-market)” (EN-1 paragraph 3.4.2).

#### Local Context:

The Wiltshire Core Strategy (adopted Jan 2015): CP1 – Settlement Strategy; CP2 – Delivery Strategy; CP3 – Infrastructure Requirements; CP32 – Spatial Strategy Westbury; CP35 Existing Employment Sites; CP50 - Biodiversity and geodiversity; CP55 Air Quality; CP57 – Ensuring High Quality Design and Place Shaping; CP58 – Ensuring the conservation of the historic environment; CP60 – Sustainable Transport; CP61 – Transport and New Development; CP64 – Demand Management; CP67 – Flood Risk

- Air Quality Strategy for Wiltshire 2019-2024
- Air Quality Action Plan for Wiltshire (June 2015)

- Air Quality Action Plan for Wiltshire – review document (draft – consultation phase due circa late 2021)
- Draft Air Quality SPD (revisions still in preparation)
- The Wiltshire Local Transport Plan (LTP) and Car Parking Strategy
- Trowbridge Bat Mitigation Strategy
- The emerging Westbury Neighbourhood Plan (at call for sites stage with the emerging Plan having no material weight for this application)
- Wiltshire's Community Infrastructure Levy – Planning Obligations Supplementary Planning Document (Planning Obligations SPD)
- Wiltshire's Community Infrastructure Levy - Charging Schedule (Charging Schedule)
- Wiltshire's Community Infrastructure Levy – Funding list

## 7. Consultations

Westbury Town Council – Objects on the following basis:

- Does not comply with Core Policy 55 by adding to the air pollution levels in the Westbury area
- Does not comply with the Climate Emergency policies and announcements by Wiltshire Council and Westbury Town Council
- Concerned about the cumulative effects of pollution, given other existing and planned processes in the area
- Lack of clarity on transport impacts – the applicant should be clear about the frequency and type of vehicles expected to enter and leave the plant.

Wiltshire Council Spatial Planning Officer – No objection. The main issue in this case is whether or not the proposed development would be acceptable in principle, with particular regard to Wiltshire Core Strategy policies - CP1, CP2, CP32 and CP35.

*Gas peaking plants, such as the one proposed, provide important balancing services where weather conditions prevent output from renewable sources, either because the wind isn't blowing, or the sun isn't shining. Peaking plants address this imbalance and reduce stress on the electricity grid, providing power stability to help avoid blackouts and maintain the security of electricity supply. As the grid is evolving to become decarbonised and more responsive to demand fluctuations, it will require investment to maintain supply which will take time. To ensure the grid is able to adapt and provide security of supply, it will need back-up sources of electricity and that's the role that peaking plants deliver.*

*Unlike base-load power plants, reserve peaking plants operate in standby mode when not in use and are only called to operate by the electricity grid when there is a demand to supply electricity. This is an important consideration as whilst developments such as that proposed rely on the burning of gas to generate electricity they only do so when needed (approximately 3000hrs per year on current forecasts).*

*The proposed development would be situated on 0.1ha of land used currently for the storage of cars within the West Wilts Trading Estate (WWTE). The entire WWTE lies within the limits of development for Westbury, a defined Market Town for the purposes of CP 1 and CP2, but is sufficiently distant from sensitive receptors so as not to generate environmental harm. Core Policies (CP) 32 and 35 of the Wiltshire Core Strategy identify the WWTE as a Principal Employment Area, a designation that seeks to protect such sites for B1, B2 and B8 uses.*

*Whilst industrial in character, the proposed development would not fall within the definitions of development covered by Use Classes B1\*, B2 or B8. However, as a form of industrial process (i.e., the burning of gas to generate electricity), it would be reasonable to argue that the proposed development would not necessarily be out of place on what is a largely an industrial estate occupied by a range of industrial type uses.*

*CP35's primary role is to protect important employment sites for employments uses. That said, it presents criteria to assess proposals for the redevelopment of land currently, or last used for activities falling within Use Class B1, B2 and B8. The applicant has, in my opinion, satisfactorily addressed the five criteria in question, but for the purposes of this response I will deal with each in turn.*

*Criterion 1 requires any alternative development to generate the same number (or more) permanent jobs. As the application site is leased to a car auction company for the storage of cars and that use would persist on the majority of the leasehold land, then it would be reasonable to conclude that there would be no direct loss of employment should the proposed development be permitted. In fact, the development proposed would generate the additional employment of 6 jobs, including 3 engineers undertaking weekly maintenance of the gas peaking plant.*

*Criterion 2 seeks to ensure that where alternative development proposals would lead to the loss of more than 0.25ha of employment land, that an equivalent scale of provision is provided elsewhere in Westbury. The proposed gas peaking plant would occupy a footprint of 0.1ha of land and hence this criterion would not apply.*

*Criterion 3 seeks to ensure that any loss of a small proportion of employment floorspace would facilitate the redevelopment and continuation of employment uses on the greater part of the site. The proposed development would see the loss of 0.1ha of land that is not being intensively used for employment purposes. Moreover, the insertion of the Gas Peaking Plant would not materially affect any of the uses that surround it. If anything, the proposed development would redevelop a small proportion of land and generate jobs.*

*Criterion 4 aims to control the use of land that falls out of employment use where the operation of such uses has led to a significant detriment to the environment or amenity of the area. The land in question is largely under-utilised for employment uses. The proposed development would be operated and maintained to ensure it runs in accordance with specifications. It would also not be in continual operation and only ever used on demand as and when the grid requires additional energy.*

*Criterion 5 seeks to ensure that applications for alternative forms of development are supported by evidence to demonstrate that employment sites are no longer viable. Again, the proposed development would occupy 0.1ha of land within a significantly large industrial estate occupied by a multitude of employment uses. Therefore, if permitted, the Gas Peaking Plant could not reasonably be seen as a threat to the overall economic future of the WWTE.*

*Notwithstanding that point, the proposed development would generate jobs, be self-sustaining for its operational life and based upon the evidence submitted, not lead to environmental harm.*

*In conclusion, whilst the proposed development would lead to a very small loss of employment land, there are material considerations that would support such a plant being located in the WWTE alongside a mix of employment uses and industrial type processes. In addition, the choice of site, with direct connectivity to the electricity grid it would serve would help deliver energy supply security at a point in time when the National Grid and District Network Operators are moving towards a decarbonised future which will take time and significant investment.*

**Note: The Use Class previously known as B1(a) no longer exists as it was subsumed into new Use Class E on 1 September 2020 following Government Planning reforms. Use Classes B1(b/c) remains in operation (correct at the time of writing).**

Wiltshire Council Environmental Health Officer – No objection subject to s106 developer contributions

NOTE: The Council's Environmental Health Officer has provided 5 sets of consultation responses for this application, which are produced in full below.

**Comments received on 11 February 2021 set out below -**

Air Quality - An air quality assessment carried out by WYG is included as part of the application (reference 784-A118713). Section 5.3 of the report states that:

*"It is proposed the engines will normally be operating at 2,000 to 2,500 hours per year, however, the operating hours may increase up to 3,000 hours per year. Therefore, the air quality assessment is based on the engine operating hours at 3,000 hours per year to produce a worst-case assessment"*

*However, in section 6 of the report it states that the modelling assessment results are based on engines operating up to 1800 hours per year. It seems that this assessment does not therefore reflect the true worst-case scenario.*

*The receptor selected to represent the Westbury AQMA (Air Quality Management Area) is a passive diffusion tube located on Haynes Road (reference D18), however, this chosen receptor does not reflect the worst-case relevant receptor for NO<sub>2</sub> in Westbury.*

*Approximately 20 metres away lies monitoring tube on Warminster Road which confirms relevant receptors are exposed to NO<sub>2</sub> concentrations of 42ug/M<sup>3</sup> - above the annual objective for NO<sub>2</sub>. This has implications for the calculations in table 6.2 of the report when calculating significance of impact. We will therefore require additional impact assessments at monitoring tube locations on Warminster Road.*

*Noise - An acoustic assessment carried out by WYG is included as part of the application (reference 784-A118713). Table 4.3 indicates that average background levels (LA90) at 25 Storrige Road (ST2) were measured to be 32.9dB during the daytime and 31dB at night.*

*However, in contrast to this, Table 5.1 uses a daytime LA90 level of 48dB and 42dB at night-time for the same location. As the generators will be used at night-time, we expect a modal figure to be used when calculating noise impact.*

*This must which cover the entire day and night-time periods of monitoring (7am to 11pm and 11pm to 7am). I need to see full details of the background monitoring data in all monitoring locations. This must include statistical modal analysis for both daytime and night-time periods in accordance with BS4142:2019.*

*The report does not provide any indication of noise exposure in nearby commercial offices. Offices are considered noise sensitive buildings and the Council has a duty to investigate noise nuisance complaints from both residential and commercial premises. As such, I would like to see predicted internal and external noise levels of the proposed development on noise levels within nearby offices on Kingdom Avenue so that I can make a comparison with design criteria provided in Table 2 of BS8288 (2014).*

#### **Comments received on 17 March 2021 set out below -**

*Air Quality - An updated air quality report (Tetra Tech Ref A118713 dated 24th February 2021) has been provided to include an assessment of receptors within the Westbury Air Quality Management Area (AQMA).*

*The report states that "the long-term and short term predicted environmental concentrations of NO<sub>2</sub> from the facility operations are all below the relevant air quality objectives".*

*Table 6.2 shows that long term NO<sub>2</sub> concentrations at the closest residential receptor will increase by 0.92 ug/m<sup>3</sup> and increase by 0.04 ug/m<sup>3</sup> within the Westbury Air Quality Management Area.*

*I have also since been made aware recently of two other developments in the Westbury area that have the potential to further increase levels of air pollution, and as such I am required to review whether the report submitted is sufficient to address concerns about cumulative impacts.*

*The air quality report has not considered the impact of this development in combination with other developments. We are concerned that there are multiple developments occurring in Westbury which have*



*the potential to contribute towards a creeping baseline of increases in air borne pollutants and also as a result introduce new exposure of Nitrogen Dioxide into an area of existing poor air quality.*

*As such, we will require the applicant to undertake further modelling to include a future scenario which takes into account the following additional proposed developments:*

- *19/10947/FUL - Installation of Gas-Powered Standby Generation Facility, Land at Hawkeridge Road Westbury Wiltshire*
- *20/06775/WCM – North Acre Energy from Waste Facility Stephenson Road North Acre Trading Estate Westbury BA13 4WD*

*The proposed developments (19/10947/FUL and 20/06775/WCM) are both considered by Development Control officers to have the potential to be approved, and as such, it is appropriate that we assess this application on the basis of cumulative impacts of these developments.*

*We will therefore require further modelling of another future scenario, to allow the cumulative impact of developments 19/10947/FUL and 20/06775/WCM to be assessed as one combined impact at relevant receptors, including those receptors within the Westbury Air Quality Management Area.*

*This position on cumulative impacts is consistent with the National Planning Policy Framework (NPPF) paragraph 181\* which states that, “Planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas”. Furthermore, government planning guidance on air quality states that air quality assessments should “where relevant”, assess “the cumulative or in-combination effects arising from several developments”. <https://www.gov.uk/guidance/air-quality--3#how-detailed-does-an-air-quality-assessment-need-to-be>*

*The Institute of Air Quality Management Guidance (2017) guidance <http://www.iaqm.co.uk/text/guidance/air-quality-planning-guidance.pdf> also supports this position in paragraph 6.22 (k) where it states, “In some particular cases, there may be another notable proposed development (without planning permission) in close proximity that could contribute an impact at receptors in combination with the primary development being assessed. In these circumstances, it may be necessary to quantify this combined impact for selected receptors and assess it against the future baseline”.*

*Officer Note\* - The reference made within the above passage to NPPF paragraph 181 pre-dated the revisions made to the NPPF in July 2021. The content of NPPF (2019) paragraph 181 is now covered by paragraph 186 (2021) as follows:*

*“186. Planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement. So far as possible these opportunities should be considered at the plan-making stage, to ensure a strategic approach and limit the need for issues to be reconsidered when 54 determining individual applications. Planning decisions should ensure that any new development in Air Quality Management Areas and Clean Air Zones is consistent with the local air quality action plan”.*

*Noise - I have been provided with additional noise comments dated 23 February 2021 in response to my request for additional background noise data to cover the entire period of operation.*

The noise data provided confirms there is a large modal spread at LT1 during the weekday period, however I accept that the background figure used is representative during the period 6am to 11pm Monday to Friday. However, the LA90 representative background figure of 48dB used in the impact calculations at R1 (25 Storridge Road) only represents the background noise environment during weekday operations.

The modal background data subsequently provided to me shows that representative background levels at weekends and bank holidays are 36dBA at 25 Storridge Road. The rating level from the gas generators at 25 Storridge Road is 47dBA.

The occupiers of 25 Storridge Road would therefore experience an increase of 11dB at their property at weekend and bank holidays. This difference constitutes a significant adverse impact according to BS4142:2019.

This impact could be managed either by restricting hours of operation so that the generators are not used at weekends or bank holidays or by mitigation measures. If mitigation is proposed, then the assessment should be submitted to the Local Planning Authority together with a scheme of attenuation measures to demonstrate the rated level of noise is -5dB below background at noise sensitive receptors and is protective of local amenity – with background levels are to be taken as a 15-minute LA90 at the boundary of the nearest residential noise-sensitive receptors.

**Further comments received on 10 May 2021 as set out below -**

Air Quality: - I have reviewed the updated report (Air Quality Assessment by Tetra Tech) and consider that it adequately addresses the cumulative impacts. The report states that NOx levels “at Westbury AQMA (Air Quality Management Area) Haynes Road (Tube DT28) and Warminster Road Tube (DT29) are 0.15 µg/m<sup>3</sup> and 0.13 µg/m<sup>3</sup>, which is 0.38% and 0.33% of the relevant AQAL (Air Quality Assessment Level) respectively. As the changes are less than 0.5%, the NO<sub>2</sub> impact on the AQMA from the facility operation would be negligible”.

D18	Westbury AQMA Haynes Road (Tube DT28)	0.04	0.02	0.08	0.15	0.38	41.00	41.15	102.88	103 – 109 of AQO	Negligible
D19	Warminster Road Tube (DT29)	0.04	0.02	0.07	0.13	0.33	43.94	44.07	110.18	≥110 of AQO	Negligible
AQO		40 µg/m <sup>3</sup>									

However, I do not agree that the cumulative impact of the development is “negligible” on the basis that at both locations within the Westbury AQMA (tubes DT28 and DT29) the long-term averages are 103-109% and 110% of the AQAL. As such, the IQAM guidance states that the impacts are moderate (see table 6.3 of IQAM guidance below).

**Table 6.3: Impact descriptors for individual receptors.**

Long term average Concentration at receptor in assessment year	% Change in concentration relative to Air Quality Assessment Level (AQAL)			
	1	2-5	6-10	>10
75% or less of AQAL	Negligible	Negligible	Slight	Moderate
76-94% of AQAL	Negligible	Slight	Moderate	Moderate
95-102% of AQAL	Slight	Moderate	Moderate	Substantial
103-109% of AQAL	Moderate	Moderate	Substantial	Substantial
110% or more of AQAL	Moderate	Substantial	Substantial	Substantial

A moderate impact would imply for a development of this type that a S106 financial contribution [from the developer is justified] to assist the Council in improving Air Quality within its Westbury AQMA and to help

bring about a reduction in the level of nitrogen dioxide to meet UK and WHO Standards by the implementation of measures as set out in the Council's Air Quality Action Plan.

**Updated comments received 7 June 2021 as set out below -**

Noise: - The noise mitigation as set out in the report by Tetra Tech dated 12 May 2021 (Ref 784-A118713) and accompanying document titled J420 SuSi Container Concept Review are acceptable and must be implemented in full so as to reduce the specific noise from the generators to 55 dBA at 10m distance as measured by a sound level meter in accordance with measurement method BS EN ISO 3744: 2010. The mitigation must be maintained for the lifetime of the use of the generators.

**Updated Comments received 3 February 2022 as set out below –**

\*Officer note\* Below are extracts from the Westbury Air Quality Management Plan and the Air Quality Action Plan.

Level	Air Quality Benefit (AQ)	External Benefits (Ex)	Alignment with existing policies (Po)	Expected Cost (£)
0	No discernible or direct benefit, even a disbenefit, to NO <sub>2</sub>	No discernible benefits to other priority areas, climate and transport policy	Diverges completely from existing Council and National policy	Zero cost, or part of existing spend
1	Low (<1 µg/m <sup>3</sup> ) benefit to NO <sub>2</sub>	Low benefits to climate and transport	Low alignment with existing policy	Low (<£10,000) cost
2	Medium (1-5 µg/m <sup>3</sup> ) benefit to NO <sub>2</sub>	Medium benefits to climate and transport	Medium alignment with existing policy	Medium (£10,000-£100,000) cost
3	High (>5 µg/m <sup>3</sup> ) benefit to NO <sub>2</sub>	High benefits to climate and transport	High alignment with existing policy	High (>£100,000) cost
<p>Example Calculation:            Measure Z: AQ (2) x Ex (2) x Po (3) - £ (1) = Overall Rating (11)</p> <p>CBA Rating Banding:            -3-0 = Undesirable Measure            0-5 = Low Priority Measure            5-10 = Medium Priority Measure            10+ = High Priority Measure</p>				

**Westbury AQMA**

**Modelled Measures**

Error! Reference source not found. **Junction optimisation at A350 (9)**

One measure for specific to Westbury AQMA was modelled for potential impacts:  
 A13 Junction optimisation at A350

The proposed improvements centre around two roundabouts along the A350:

- Roundabout where A350 meets B3098 (Bratton Road); and
- Roundabout where A350 meets B3097 (Station Road).

The locations of the potential improvements are at the heart of the AQMA in Westbury and these are envisaged to help improve the traffic flow through the town. Speeds on the affected roads were increased to model improvements in traffic flows from the junction changes. Table Error! No text of specified style in document.-1 displays the locations with the highest NO<sub>2</sub> potential impacts with the measure in place, modelled at receptors along Haynes Street and Warminster Road.

**Table Error! No text of specified style in document.-1: Results of the Baseline and Future year scenario with and without measure** Error! Reference source not found.

Receptor ID	Address	NO <sub>2</sub> Annual Mean (µg/m <sup>3</sup> )					
		2019			2026		
		Without Measure	With Measure	Change in NO <sub>2</sub>	Without Measure	With Measure	Change in NO <sub>2</sub>
RW30	Flat 1 18 Warminster Road BA13 3PB	<b>48.1</b>	<b>46.3</b>	-1.9	27.9	26.7	-1.2
RW26	53 Haynes Road BA13 3HD	<b>43.7</b>	<b>42.2</b>	-1.5	25.2	24.2	-1.0
RW06	69 Warminster Road BA13 3PJ	<b>43.0</b>	<b>41.6</b>	-1.4	24.6	23.7	-0.9
RW33	49B Warminster Road BA13 3PJ	<b>42.7</b>	<b>41.3</b>	-1.4	24.4	23.5	-0.9

NO<sub>2</sub> concentrations shown in bold indicate exceedances of the AQS objective for annual mean NO<sub>2</sub> set at 40 µg/m<sup>3</sup>, and underlined figures indicate potential exceedances of the short-term (1-hour) NO<sub>2</sub> objective.

With the measure in place, reductions of up to 1.9 µg/m<sup>3</sup> and 0.9 µg/m<sup>3</sup> in the baseline and future year scenarios were modelled across the receptors in the vicinity of the AQMA. The greatest impacts are likely to be observed on Warminster Road, with traffic congestion prevalent along this road, as demonstrated by the reductions in NO<sub>2</sub> concentrations at receptors RW 30, RW 06 and RW 33.

*Error! Reference source not found. CBA – AQ (2) x Ex (3) x Po (2) - £ (3) = Overall*

**Environmental Health officer’s assessment of Measures vs Impact:**

Costs of junction optimisation measure*	£700,000.00
Air quality impact of traffic optimisation measure	1.2 µg/m <sup>3</sup>

\* Based on indicative costs of a similar scheme in Chippenham to improve flow of traffic by removing a mini roundabout and replacing with optimised traffic lights.

**Individual** contribution of Kingdom Avenue development to NO<sub>2</sub> levels in AQMA = 0.04 µg/m<sup>3</sup>.

**Cumulative** contribution of all recent developments (this application, 19/10947/FUL and 20/06775/WCM) to NO2 levels in AQMA = 0.15 µg/m3

The **individual** NO2 Contribution is estimated to count towards 3.3% of the NO2 reductions associated with the junction optimisation measure. The cost calculated as a % towards the cost of the traffic optimisation measure is **£23,333.31**

The **cumulative** NO2 Contribution is estimated to count towards 12.5% of the NO2 reductions associated with the junction optimisation measure. The cost calculated as a % towards the cost of the traffic optimisation measure is **£87,500.00**

Wiltshire Council's Climate Change Officer – Provided the following comments:

*It is acknowledged that a gas energy generation facility can support the provision of renewable energy (such as solar installations) by providing a source of energy at times when the renewable energy generation is not able to produce enough energy. However, in light of the need to achieve carbon neutrality (as set out in the Climate Change Act 2008, Wiltshire Council's Climate Strategy Discussion Paper and Committee on Climate Change 6th Carbon Budget Sixth Carbon Budget - Climate Change Committee (theccc.org.uk)) gas-fired energy generation would not seem to be an optimal way of achieving a continuous energy supply, from the perspective of its carbon dioxide emissions.*

*Alternative ways of achieving a continuous supply, such as battery storage, are available but are not mentioned in the supporting documents. However subsequent communication has indicated that there are currently issues with grid capacity in the location of the development, such that battery storage is not being pursued at this time.*

*Paragraph 4.49 of the Wiltshire Core Strategy states that "The provision of new or improved infrastructure will be positively supported, particularly where opportunities arise through redevelopment or regeneration in sustainable locations, provided that this has no detrimental impact on the environment and contributes towards mitigation and adaptation to climate change".*

*Whilst it has been argued in the supporting documents that this proposal contributes towards mitigation of climate change, as it supports renewable energy installations, a gas-fired power plant in itself, is not a low carbon technology.*

*It is clear that burning fossil fuels has a detrimental impact on the environment. Moreover, alternative options exist (e.g., battery storage) that can achieve a similar function whilst having a much lower impact on the environment and thereby making a significantly higher contribution towards mitigation of climate change.*

**However, it is noted that fossil fuels still currently play a part in the production of electricity and there is acknowledgement in the Energy White Paper (dated December 2020) that the type of facility proposed in this application currently plays a role in providing a reliable source of energy.**

**It should also be noted that the Energy White Paper indicates that gas peaking plants are not likely to be part of the suite of preferred, low carbon solutions by 2050 (p44).**

**Notwithstanding the above, it is also recognised that the gas supply may in future be replaced by hydrogen, biogas, green gas or other alternative fuels and with this in mind the developer is encouraged to ensure that the facility, if permitted, is able to adapt to these changing types of fuels through its lifetime.**

Wiltshire Council Highways Officer – No objection subject to a planning condition.

This proposed development would not generate a significant volume of additional traffic on the local highway network, including during the construction phase of the development, details of which are outlined within the Construction Traffic Management Plan (CTMP).

\*The proposed construction and delivery vehicles will include the following\*

- 12no. 18m low loader;
- 18no. 15.4m articulated lorry;
- 1no. 8m tanker lorry;
- 10no. 10m rigid lorry; and
- 1no. 160-300tn Crane.

The CTMP outlines that HGV movements and routing would be from the north. During the operation of the plant, the facility would likely only generate up to three small vans or 4x4 type vehicle per week visiting the site for maintenance and monitoring purposes.

The proposed development proposes a new vehicular access into the site that would have appropriate visibility splays of 2.4m x 43m and an 8m Footway Crossover Type Access. The junction would be able to accommodate a 18m low loader to turn both left and right into and out of the site.

*I note that the CTMP suggests that a temporary TRO could be put in place for the 18m low loader deliveries. For the level of movements being detailed over a 4–6-month construction period, a temporary TRO would be disproportionate. I suggest that a planning informative and condition that the CTMP is a documented approved plan, and that site implementation accords with it. The applicant should also be encouraged to contact the Wiltshire Council Area Highway office, to arrange a scheme and provision of 'no waiting at any time' cones. These cones could be placed on the Public Highway prior to the periods when the 18m low loader/ HGV / crane movements and deliveries are scheduled.*

Wiltshire Council Ecology Officer – No objection subject to conditions.

*The Ecological Assessment Report (Avian Ecology dated 13/11/20) provides a suitable assessment and recommendations. Due to the scale and nature of the proposals and the existing habitats at the site, there are no likely impacts to the Bath and Bradford-on-Avon Bats SAC.*

Wiltshire Council Drainage Officer – No comments or concerns.

Wiltshire Council Conservation Officer – No objection. The application is accompanied by a heritage assessment which provides an appropriate assessment of the potential impact on heritage assets in the area. The only built heritage asset with an historic connection with the site, is Storridge Farmhouse – which would not be materially harmed by this proposed development. In reaching this conclusion, officers have recognised that the industrial estate and several industrial units are located between the recorded heritage asset and the application site and that the proposed development would have no additional impact on the setting of the listed farmhouse.

## **8. Publicity**

The application was publicly advertised through the display of a site notice at the site and 31 individually posted neighbour notification letters to units located along Kingdom Avenue and to residential properties

located along Storridge Road and Hawkeridge Park. The deadline for third party representations was 5 February 2021 (although later comments have been received and have been taken into account by officers).

In response to the public notification exercise, 41 letters of objection have been received. The objections and comments are summarised below:

- The development would increase air pollution and CO2 emissions
- Why is the proposal using outdated technology? Why not use battery storage instead?
- The proposal does not comply with Wiltshire Council's declared climate emergency
- Concerns raised over noise pollution affecting residential properties and adjacent businesses
- This proposal would have a negative impact on the retention of existing business units due to excessive noise impacts.

## 9. Planning Considerations

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

### 9.1 Principle of Development – Use of Employment Site Land

9.1.1. The Core Strategy sets out the spatial strategy for Wiltshire and seeks to promote a sustainable pattern of development by directing development to existing settlements and allocated sites to improve self-containment and reduce the need to travel. The Settlement Strategy is set out in Core Policy 1 and the Delivery Strategy is set out in Core Policy 2. The application site is within the limits of development for Westbury and therefore satisfies the first part of the WCS.

9.1.2. Whilst there is no specific policy within the WCS for the type of infrastructure proposed in this application, Strategic Objective 6: titled '*ensuring adequate infrastructure is in place to support our communities*' includes the provision of essential infrastructure and support for new and improved infrastructure provided there are no detrimental environmental impacts. Core Policy 3 identifies new energy facility provision as being essential infrastructure.

9.1.3. The application site is located within an allocated 'Existing Employment site' under WCS Core Policy 35, which requires allocated sites to be retained for employment purposes within Use classes B1, B2 and B8 to safeguard their contributions to the Wiltshire economy. The proposed use would not fall under these use classes and is considered to be a 'sui generis' use. The proximity of the application site to the built-up area of Westbury (and being set within an industrial estate) is a key driver for the selected location.

9.1.4. It is worthy of note that Wiltshire Council has approved five similar gas fired power plants in recent years (following the adoption of the WCS in 2015), in response to the National Grid's urgent requirement to increase the availability of reserve power sources, although there has continually been an acknowledgement that new potential supply has been constrained by the availability of grid connection opportunities which continue to be difficult to secure. However, two of the aforementioned five approved sites have been located within existing employment sites across the County (to which applications 17/10343/FUL and 17/10832/FUL refer in Calne and Melksham respectively), and for those two cases, the Council accepted the principle of development of gas-fired powered plants occupying land at an allocated employment site. For this application, the proposal was subject to a fresh consultation with the Council's spatial planning team. Within their response, the following key conclusions have been noted: -

*"Whilst industrial in character, the proposed development would not fall within the definitions of development covered by Use Classes B1\*, B2 or B8. However, as a form of industrial process (i.e., the burning of gas to generate electricity), it would be reasonable to argue that the proposed development would not necessarily be out of place on what is a largely an industrial estate occupied by a range of industrial type uses".*

**Note: The Use Class previously known as B1 no longer exists as it was subsumed into the new Commercial, Business and Service Use Class (Class E) on 1 September 2020 following Government**

**Planning reforms. Use Classes B1(b/c) remains in operation (correct at the time of writing). B2 and B8 land uses remain in place (at the time of writing).**

9.1.5. Furthermore, officers accept that the development would deliver employment through the construction, maintenance and operating phases. It is also material to note that the application site is only being used as a car park/storage area which generates, at present, less direct employment – compared to what would be delivered by the gas-fired power plant facility.

9.1.6. It is also noteworthy to mention that the employment site allocation affected by this application proposal, was originally identified in 2004, and the first outline application for industrial development was approved in 1997. Twenty-four years on, there still remains a significant amount of land within the industrial estate left undeveloped, and specific to this application site, three planning applications have been approved for industrial development, but none have come to fruition. Officers have measured the (Brook Lane and North Arce CP35 allocation) to be approximately 52.3 hectares and calculate that approximately 9 hectares remains completely undeveloped (\*this does not include the currently undeveloped land subject to the Northacre application site for the Waste Facility under application 20/06775/WCM\*). There is a further approximate 2 hectares of land which either has permission for car storage or is simply being used to store cars (using google aerial images) on other land within the CP35 allocation.

9.1.7. Officers are satisfied that in this particular case and mindful of the site extent, this application proposal would not undermine the employment site policy itself and as referenced, there is sufficient residual employment site land for future industrial development. It should also not be overlooked that this proposal is seen as being a temporary facility, and in the longer term, the land could well be re-development for an industrial unit should market demand prevail.

9.1.8. In consideration of the above, officers submit that the principle of development is supported in this instance.

**9.2 Supporting Energy Supply, Climate Change and moving towards Carbon Neutrality:**

9.2.1. The application is for a Gas-Powered Standby Generation Facility to support energy supply during times of high demand. Whilst it is accepted that that burning fossil fuels has a detrimental impact on the environment, maximising the use of fossil fuels still currently plays a part in the production of electricity and there is acknowledgement in the Energy White Paper (dated December 2020) that the type of facility proposed in this application, currently plays a role in terms of providing a reliable and continuous source of energy.

9.2.2. This is confirmed in the forward from the Prime Minister in the governments Net Zero Strategy: Build Back Greener (October 2021) which states:

*“We will make sure what you pay for green, clean electricity is competitive with carbon-laden gas, and with most of our electricity coming from the wind farms of the North Sea or state-of-the-art British nuclear reactors we will reduce our vulnerability to sudden price rises caused by fluctuating international fossil fuel markets.”* The Secretary of State for Business, Energy and Industrial Strategy continues *“At the same time we will reduce greenhouse gas emissions across the economy to reach net zero by 2050.”*

9.2.3. The Strategy also sets out that:

*“we will ensure the biggest polluters pay the most for the transition through fair carbon pricing.”*

It further states that:

*“Our power system will consist of abundant, cheap British renewables, cutting edge new nuclear power stations, and be underpinned by flexibility including storage, gas with CCS, hydrogen and ensure reliable power is always there at the flick of a switch”.*



One of the key policies is that:

*“By 2035, the UK will be powered entirely by clean electricity, subject to security of supply.”*

9.2.4. The Net Zero Strategy also not have any substantive policy prohibiting the creation of any new gas-powered plants. There are numerous references made to phasing out the installation of gas boilers by 2035, but there is an acceptance that the use of gas remains within the current energy mix and to ensure a security of supply.

9.2.5. The proposed development would not clearly generate electricity from renewable sources, but it has a crucial part to play in terms of making the transition to a low or zero carbon future and crucially stabilise supply – which is documented by the Government within EN-1, EN-2 and more recently the Energy White Paper dated December 2020. Officers are satisfied that the type of facility proposed for this Westbury site has a place in the overall mix of energy supply.

9.2.6. Energy is vital to economic prosperity and social well-being and so it is important to ensure that the UK has secure and affordable energy. Producing the energy, the UK requires and getting it to where it is needed, necessitates a significant amount of infrastructure, both large and small scale. It is also critical that the UK continues to have secure and reliable supplies of electricity as we make the transition to a low carbon economy. To manage the risks to achieving security of supply the Government has set out within EN1 that:

*“we need:*

- *sufficient electricity capacity (including a greater proportion of low carbon generation) to meet demand at all times. Electricity cannot be stored (except for hydro pump storage) so demand for it must be simultaneously and continuously met by its supply. This requires a safety margin of spare capacity to accommodate unforeseen fluctuations in supply or demand;*
- *reliable associated supply chains (for example fuel for power stations) to meet demand as it arises;*
- *a diverse mix of technologies and fuels, so that we do not rely on any one technology or fuel. Diversity can be achieved through the use of different technologies and multiple supply routes (for example, primary fuels imported from a wide range of countries); and*
- *there should be effective price signals, so that market participants have sufficient incentives to react in a timely way to minimise imbalances between supply and demand”.*

9.2.7. In the medium term, the Government outlines within EN1 that:

*“we face the challenges of reducing our energy demand, replacing existing power plants due for closure and maximising the economic production of our declining domestic oil and gas reserves. Developing our infrastructure (for example with Smart Grids for electricity) will help us maintain and improve our security and access to competitive supplies, particularly for electricity generation and gas importation and storage. This investment challenge drives much of the reform outlined in the 2010 Annual Energy Statement”.*

9.2.8. In September 2021, the Government published its draft Overarching National Policy Statement for Energy (NPSE) which sets out the following material observations within para 3.4.4:

*“While the Energy White Paper signals a decisive shift away from unabated natural gas to clean energy, this transformation cannot be instantaneous without jeopardising a secure, reliable, and affordable energy system. As illustrated in Fig 3.1, BEIS latest published reference scenario, based on 2019 assumptions, projects that the UK’s demand for natural gas will continue to fall to 2025 but will stabilise after that to 2035. **There will continue to be demand for natural gas, and therefore a need for the gas infrastructure that supports it, during the transition to a net zero system in 2050 and potentially beyond,** as we develop the means to address the carbon dioxide and other greenhouse gases associated with its use, including though the development and deployment of low carbon alternatives”.*

9.2.9. Under the heading of delivering affordable decarbonisation, paragraph 3.4.9 of the draft NPSE leads on to say:

*“Where low carbon alternatives can replace unabated natural gas, we will still need new gas infrastructure. Given the changing nature of the energy landscape, we cannot be certain on the precise role of natural gas, or gas infrastructure, in the future. But the approach we take must remain consistent with our energy objectives”.*

9.2.10. It is important therefore to appreciate that new gas infrastructure should not be seen as running counter to the decarbonisation objectives as gas peaking plants could *“be repurposed in the future for use by other gases required to deliver a net zero economy, such as low carbon hydrogen or for transportation of carbon dioxide to storage. Therefore, there is an ongoing need for retaining and developing the infrastructure for importing, storing and transporting gas”.*

9.2.11. Within paragraph 3.4.13 of the draft NPSE, the Government sets out the additional intentions:

*“Blending hydrogen into the current natural gas distribution networks (potentially up to 20% by volume) can help support the near-term growth in the supply and demand of low carbon hydrogen. It can also deliver some emission reductions from heat use without requiring changes to domestic appliances. Although trials of up to 20% hydrogen (by volume) in the natural gas network are underway, confirming the specific levels of hydrogen blends that can be used in the natural gas networks requires further work. The Prime Minister’s Ten Point Plan published on 18 November 2020 includes a target milestone for government to work with industry to complete all necessary testing to allow an up to 20% blend into the gas distribution network by 2023”.*

9.2.12. *“Looking further ahead, the 2050 pathways show that the need to electrify large parts of the industrial and domestic heat and transport sectors could double demand for electricity over the next forty years. It makes sense to switch to electricity where practical, as electricity can be used for a wide range of activities (often with better efficiency than other fuels) and can, to a large extent, be scaled up to meet demand. To meet emissions targets, the electricity being consumed will need to be almost exclusively from low carbon sources. Contrast this with the first quarter of 2011, when around 75% of our electricity was supplied by burning gas and coal”.*

9.2.13. Within paragraph 2.2.23 of EN1, the Government fully accepts that whilst *“the UK must reduce over time its dependence on fossil fuels, particularly unabated combustion. The Government plans to do this by improving energy efficiency and pursuing its objectives for renewables, nuclear power and carbon capture and storage. However, some fossil fuels will still be needed during the transition to a low carbon economy”.*

9.2.14. Given that the application site, as a location, is considered acceptable in principle, the delivery of this 7.5MW gas peaking energy generation plant deserves considerable weight in the planning balance, and the Department of Energy and Climate Change July 2021 EN1 publication as well as the draft National Policy Statement for Energy, as referenced above, sets out the approach for new energy infrastructure, and fully supports the appropriate provision. The application proposal is also considered to satisfy strategic objective 6 (titled *‘to ensure that infrastructure is in place to support communities’* as listed on pages 34-35 of the adopted Wiltshire Core Strategy.

9.2.15. At appeal, planning inspectors have generally supported the provision of gas-fired power plants (such as appeal ref: APP/V3310/W/20/3263845 (dated May 2021) pursuant to a site in Sedgemoor, whereby the appointed planning inspector concluded that: -

*“The development would contribute to the reliability of the electricity supply at times of peak demand, thus supporting a national move away from fossil fuel generation to a supply based increasingly on renewable energy. So, although it would itself use natural gas, it would constitute associated infrastructure that would support a nationwide shift towards renewable and low carbon*

energy. Consequently, the proposal would accord with the Framework's aims of supporting the transition to a low carbon future in a changing climate".

9.2.16. It is important to note that the above appeal decision acknowledges natural gas is a fossil fuel, but that local peak energy provision would help supplement energy supply at times when renewable energy cannot satisfy the levels of demand, thereby supporting the overall transition to a low carbon future.

9.2.17. In another appeal (ref: APP/U1105/W/20/3247638 dated June 2020) pursuant to the installation of a synchronous gas-powered stand-by generation facility in East Devon, the appointed planning inspector set out the following planning judgement:

*"The planning balance that applied here is a straight weighing of the benefits of the proposed development against the harm. The overall assessment in this case is finely balanced. The benefits of electricity generation at times of high demand should attract considerable weight in favour of the proposal. The harm to climate change objectives due to GHG emissions from the facility should be given considerable weight against allowing the proposed development. The other matters considered do not weigh significantly in the planning balance. In my judgement, the support the proposed development gains from EN1, which is a relevant material consideration here, notwithstanding that the scheme is not an NSIP\*, is sufficient to tip the balance in favour of the proposal".*

[Note: NSIP\* as referenced above, stands for Nationally Significant Infrastructure Projects, one such example being the proposed Stonehenge/ A303 tunnel].

9.2.18. In addition to the above, and looking at some large-scale gas related energy development proposals, in August 2020 the Secretary of State granted a s37 application for a DCO (Development Consent Order) for a 299MW gas-fired electricity generating station comprising an open-cycle gas turbine (OCGT) in north Lincolnshire. In the previous year, a separate 299MW OCGT gas fired power station was approved by the Secretary of State for Business, Energy and Industrial Strategy (BEIS) – with both large-scale installations being considered compliant with the Government's overarching national policy statement for energy EN-1 and in recognition fossil fuel extraction and burning is essential to provide the UK with a continuous electricity supply.

9.2.19. The Sedgemoor and East Devon cited appeals were similar in terms of scale and nature when compared to the Kingdom Avenue proposal, and these have been specifically reviewed by officers, and consistent with the direction set out within EN1 and the two noted appeal decisions, officers apply considerable weight to the benefits of providing additional energy infrastructure and providing more capacity to support a continuous and simultaneous electricity supply – which must be weighed against the acknowledged consequential levels of harm the gas-fired plant would have upon the environment through the use of fossil fuels and the resulting levels of pollution – which is assessed within section 9.3 of this report.

9.2.20. There is support set out within the NPPF to help increase the use and supply of renewable and low carbon energy. The extent to which this type of facility contributes to a low carbon economy was considered by the appeal inspectors in respect of the aforementioned appeals. It is important to appreciate that if approved and built, the proposal would operate directly under National Grid's Capacity Market which aims at delivering low carbon energy supplies whilst maintaining supply security and minimising costs to the consumer.

9.2.21. Many of the letters of representation received by the Council argue that the proposed gas-fired technology is 'obsolete' and that a battery storage or other new technologies would be more appropriate. However, this is not the case as the Government Energy White Paper acknowledges the role of gas-powered peaking plants has in the current energy supply mix. It should not be overlooked either that there is increasing optimism that in the future, these gas-fired facilities could be de-carbonised and retrofitted to function using clean hydrogen (when viable).

9.2.22. As far as Wiltshire Council's Climate Change Strategy is concerned, the following insert is taken directly off our website which clarifies matters in terms of our commitment to deliver carbon neutrality by 2030.

## Overview

In February 2019 we resolved to acknowledge a climate emergency and to seek to make the county of Wiltshire carbon neutral by 2030. A Global Warming and Climate Emergency Task Group was set up to gather evidence and come up with recommendations on achieving net zero. Our Cabinet subsequently committed to also make the council carbon neutral by 2030.

A new carbon reduction strategy will be prepared to enable us to meet these commitments.

The plan will be evidence and data led and a baseline assessment will be undertaken to assist in identifying needs and determining priorities.

It is proposed that the plan will include a community led approach which engages, empowers, enables and communicates with Wiltshire communities and businesses.

Carbon reduction will be a key theme in the council's recovery from COVID-19.

9.2.23. Whilst the Council has a commitment to make the County carbon neutral by 2030, it is important to stress that this is not enshrined within any adopted planning policy. As set out in the paragraphs above this proposal would help the move towards renewable and low carbon energy by ensuring a fully reliable (and local) back up to energy supply to cover for when the existing renewable and low carbon energy supply cannot meet demand. As set out by the Governments EN1 document, "*demand for \*electricity\* must be simultaneously and continuously met by its supply*". Until electricity demand can be completely met by low carbon and renewable energy, there will have to be space for this type of development in the energy mix.

9.2.24. Reaching the Governments net zero target by 2050 for carbon dependency will require cutting emissions as much as possible and then balancing out all remaining ones by various means including: planting trees and burying CO<sub>2</sub> underground. To avoid any misunderstanding, there may still be a future for fossil fuel beyond 2030 as alternative energy sources like blue hydrogen is produced by maximising fossil fuels, but its environmental impact can be mitigated by capturing and storing greenhouse emissions underground. Green hydrogen, meanwhile, is produced using renewable energy. In sum, and at present, a move towards a carbon neutral future does not necessarily mean the end to using fossil fuels as a resource.

9.2.25. On 17 August 2021, the Government launched its plan to introduce hydrogen energy into the energy mix. Government analysis suggests that 20-35% of the UK's energy consumption by 2050 could be hydrogen based. In a related online BBC article titled: "**Hydrogen power offers jobs boost, says government**" which was published on the same day, it quoted Dr Jan Rosenow from the Regulatory Assistance Project, an organisation dedicated towards accelerating the transition to clean energy, who argued that:

*"As the strategy admits, there won't be significant quantities of low-carbon hydrogen for some time. We need to use it where there are few alternatives and not as a like-for-like replacement of gas... Hydrogen for heating our homes will not play a significant role before 2030. The government's strategy shows that less than 0.2% of all homes are expected to use hydrogen to keep warm in the next decade. This means that for reducing emissions this decade, hydrogen will play only a very marginal role".*

9.2.26. Therefore, the role of hydrogen power will not likely play a significant part in changing our energy mix in the fight against climate change for quite some time, which only reaffirms that in the meantime, there is a necessity to maximise and include fossil fuels within the existing energy mix as the transition to more renewable and alternative energy supply continues.

9.2.27. In the Government's Hydrogen Strategy, there is the aim to "work with industry to assess the safety, technical feasibility, and cost effectiveness of mixing 20% hydrogen into the existing gas supply. Doing so could deliver a 7% emissions reduction on natural gas." Officers note that the Strategy does not set out any commitment to ban or end the use of natural gas – but there is an 'ambitious' 10-point plan "for 5GW of low carbon hydrogen production capacity by 2030 – which could replace natural gas in powering around 3 million UK homes each year as well as powering transport and businesses, particularly heavy industry". It is thus clear that the Hydrogen Strategy will work alongside fossil fuels in the energy mix for the time being.

9.2.29. Decision makers when tasked with appraising new energy power plants like this development proposal, must appreciate that if energy demand is not met by existing energy sources, the supply could be compromised which would lead to potentially significant economic and social consequences. When energy supplies are reliant upon larger and more remote power stations, there is some energy lost when passing through large power lines, a risk and consequence that would not occur to the same extent with locally sourced power plants.

9.2.30. Officers appreciate that the emerging Wiltshire Local Plan review will *inter alia* focus on the Council's Climate Change approach and progress with appropriate new policies to marry up the Council's abovementioned commitment and ambition to reach carbon neutrality and have development tested against appropriately worded and tested policies. As things stand, this application must be tested against the policies that presently exist, and as set out above, officers are satisfied that the application should be supported, and that substantive weight should be afforded to the delivery of new electricity generation in the planning balance. Officers appreciate that there would be some harm and the following sections respond to the environmental impacts. For the avoidance of any doubt, the insert below is taken from the Council's website which states that carbon reduction will be considered as part of the Local Plan review.

Carbon reduction will be a key theme in our recovery from COVID-19. As well as developing a new carbon reduction strategy, we are carrying out a review of the Local Plan and developing our fourth Local Transport Plan. Carbon reduction will be an integral theme within these documents. We are currently developing a [Green and Blue Infrastructure Strategy](#). From this we will develop a woodland and tree planting policy.

### **9.3 Environmental Impacts - Air Quality:**

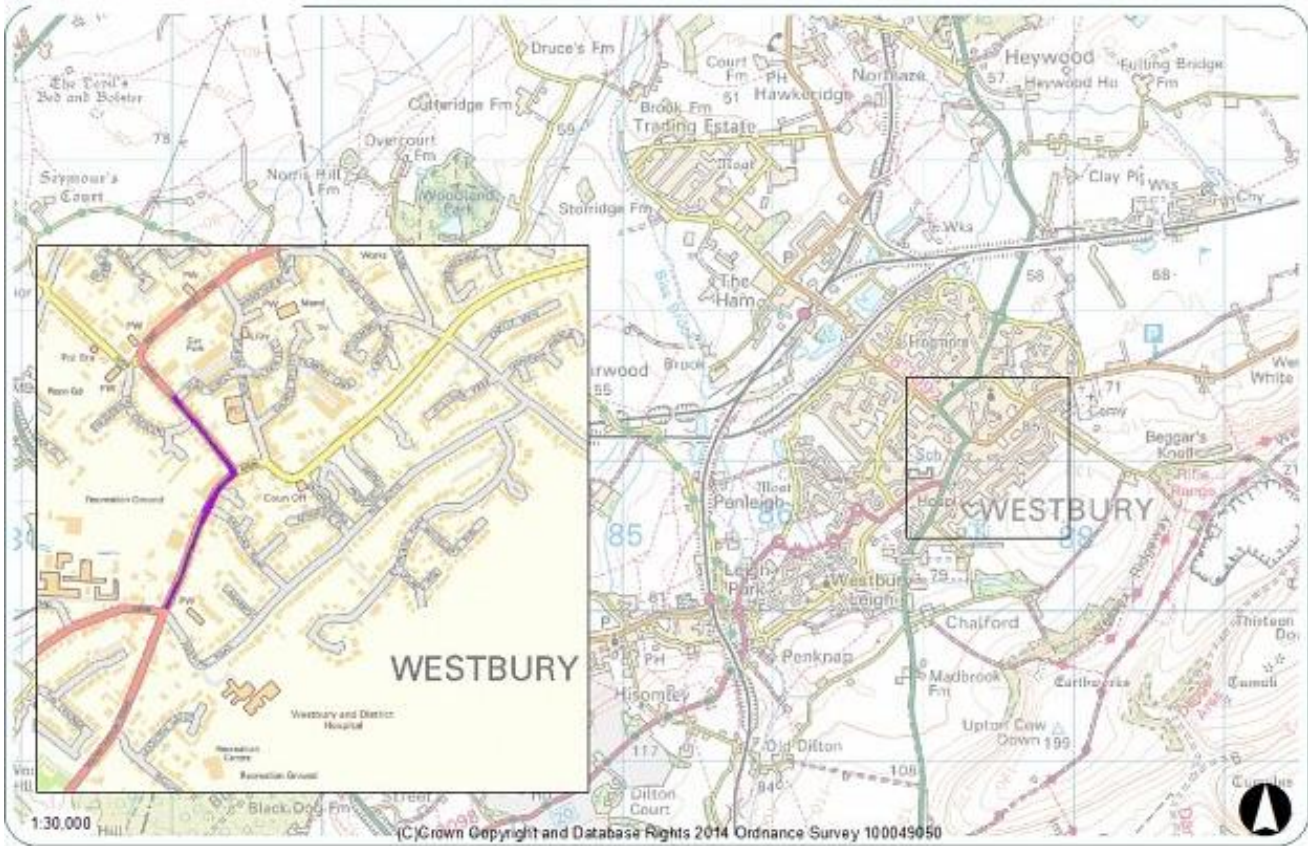
9.3.1. Adopted WCS Core Policy 55 Air Quality sets out that *development proposals by virtue of their scale, nature or location are likely to exacerbate existing areas of poor air quality, will need to demonstrate that measures can be taken to effectively mitigate emission levels in order to protect public health, environmental quality and amenity. Mitigation measures should demonstrate how they will make a positive contribution to the aims of the Air Quality Strategy and the Wiltshire Air Quality Action Plan.*

Core Policy 55 sets out five options and forms of mitigation which includes criterion v) which states that: -

*"where appropriate, contributions sought toward the mitigation of the impact a development may have on level of air pollutants".*

9.3.2. The Air Quality Strategy for Wiltshire reported that the "Air quality in Wiltshire is predominantly good with the majority of the County having clean unpolluted air. There are however a small number of locations where the combination of traffic, road layout and geography has resulted in exceedances of the annual average for nitrogen dioxide (NO<sub>2</sub>) and fine particulate (PM<sub>10</sub>).

These locations include stretches of the A350 and Westbury, as indicated on the following plan:



9.3.3. An Air Quality Action Plan for Wiltshire is awaiting DEFRA approval, and a specific Westbury Action Plan and an Air Quality SPD are also in preparation. The draft version of the SPD states that: -

*“Where developments take place in an AQMA [Air Quality Management Area], mitigation measures must be considered as standard practice, particularly in cases where the development is new and does not replace an existing use. This is especially important where the development has provision for a large number of parking spaces, significantly increasing the number of trips, and/or heating plant. In some cases, it may be necessary to recommend refusal where a development is so contrary to the objectives of the Air Quality Action Plan and Strategy”.*

9.3.4. In this particular case, the planning case officer in conjunction with the Council’s Environmental Health officer had extensive dialogue with the applicant and their appointed consultants to address concerns relating to air quality and noise impacts (noting that the noise impact is addressed in the next section of this report). This direct negotiation resulted in the applicant submitting additional information and a cumulative impact assessment which took into account the impact from the subsequently Council approved application 19/10947/FUL (at Hawkeridge Road, Westbury) and the council endorsed application 20/06775/WCM (North Acre Energy from Waste Facility, Stephenson Road, Westbury) in addition to appraising the level of air pollution that would be created by this proposal.

9.3.5. The Council’s Environmental Health officer has dutifully considered the noise and air quality submissions and following a careful appraisal of the cumulative impact assessment, it has been concluded that this proposed development would have a ‘moderate’ impact on air quality i.e., a net increase, but in planning and environmental terms, an effect that could be appropriately mitigated in the form of a developer financial contribution of £23,333.31- which would go towards funding “A13 Junction optimisation at A350” comprising improvements to be made to the roundabouts in Westbury; where the A350 meets the B3098 (Bratton Road) and where the A350 meets the B3097 (Station Road) aimed at reducing air pollution within

the town. The applicant was advised of this mitigation necessity and agreed to enter into a s106 to secure this financial contribution should members endorse the officer recommendation.

9.3.6. To assist with the assessment of this application, officers sought counsel opinion from Christopher Boyle QC (which was received on 11 February 2022) which centred on the environmental effects with officers asking specific questions which were answered and are set out within the annexed Opinion at the end of this report. The first key point to note from the high-level legal opinion is that the predicted Nitrogen Dioxide impacts associated with this development on the Westbury Area Quality Management Area (AQMA):

*“...is not concerned with the Council’s carbon-neutral pledge”.*

9.3.7. Secondly, it is important to acknowledge that the NPPF and the WCS does not set out what methodology should be used to assess any financial contribution to mitigate impacts on an AQMA. The Counsel Opinion also argues that the Council is not required to use the DEFRA “emissions factors toolkit”, and it should be noted that the Council has not enshrined the toolkit into its adopted or supplementary planning policy framework. Whilst the toolkit has some useful applications, it has some critical limitations and specific to this application, officers have been legally advised not to use the toolkit on the basis that:

*“..the calculation through the Toolkit may be entirely unrelated to the necessary mitigation measures identified to respond to the increased NO<sub>2</sub> levels predicted in the Westbury AQMA (either too high, or, indeed, too low). By Reg 122 of the CIL Regulations, any contribution sought and secured in the s.106 obligation must meet the statutory test of necessity.”*

9.3.8. Readers should note that a previously published consultation response by the Councils Environmental Health officer dated 3 September 2021 was latterly rescinded and it has not been included within this report. The 3 September 2021 consultation applied the DEFRA emissions toolkit; but following receipt of the Counsel Opinion and advice that the DEFRA toolkit should not be used as a means of calculating developer contributions for this proposal because it is not specific to the AQMA, the September consultation advice was redacted by the environmental health officer.

9.3.9. Members will be aware that any developer obligation must satisfy three legal tests, as set out in the CIL Regulations (s122(2) and NPPF paragraph 57 (to name two sources) which directs decision makers that they must only be sought where they meet all of the following tests:

- They are necessary to make the development acceptable in planning terms;
- They are directly related to the development; and
- They are fairly and reasonably related in scale and kind to the development.

9.3.10. For this development proposal, officers have liaised with legal colleagues within the authority in addition to securing the aforementioned Counsel Opinion to fully consider the methodology used by the environmental health in-house experts to appraise and quantify the environmental effects and attributing a cost and mitigation calculation. The expert in-house public protection advice leads your planning officers to conclude that the contribution this development at Kingdom Avenue would have upon NO<sub>2</sub> levels within the AQMA would not be insignificant but as reported, can be suitably mitigated through traffic optimisation measures to reduce NO<sub>2</sub> levels overall. For the avoidance of any doubt, the mitigation being recommended here would be off-site, but would deliver more public benefit by reducing the levels of Nitrogen Dioxide within the AQMA. As set out within the reported consultation section for the public protection/environmental health response to this application, the associated quantified nitrogen dioxide levels have been calculated as 0.04 µg/m<sup>3</sup>, which with the developer obligation secured, the Council would have money to direct towards traffic optimisation works at two roundabouts in central Westbury and within the AQMA to deliver air quality betterment through reducing NO<sub>2</sub> levels by some 1.2 µg/m<sup>3</sup>, which in turn, would deliver betterment to residential receptors currently experiencing particularly high NO<sub>2</sub> levels.

9.3.11 In addition, and mindful of the three legal tests cited above, officers have been directed by the requirement that for any planning obligation:

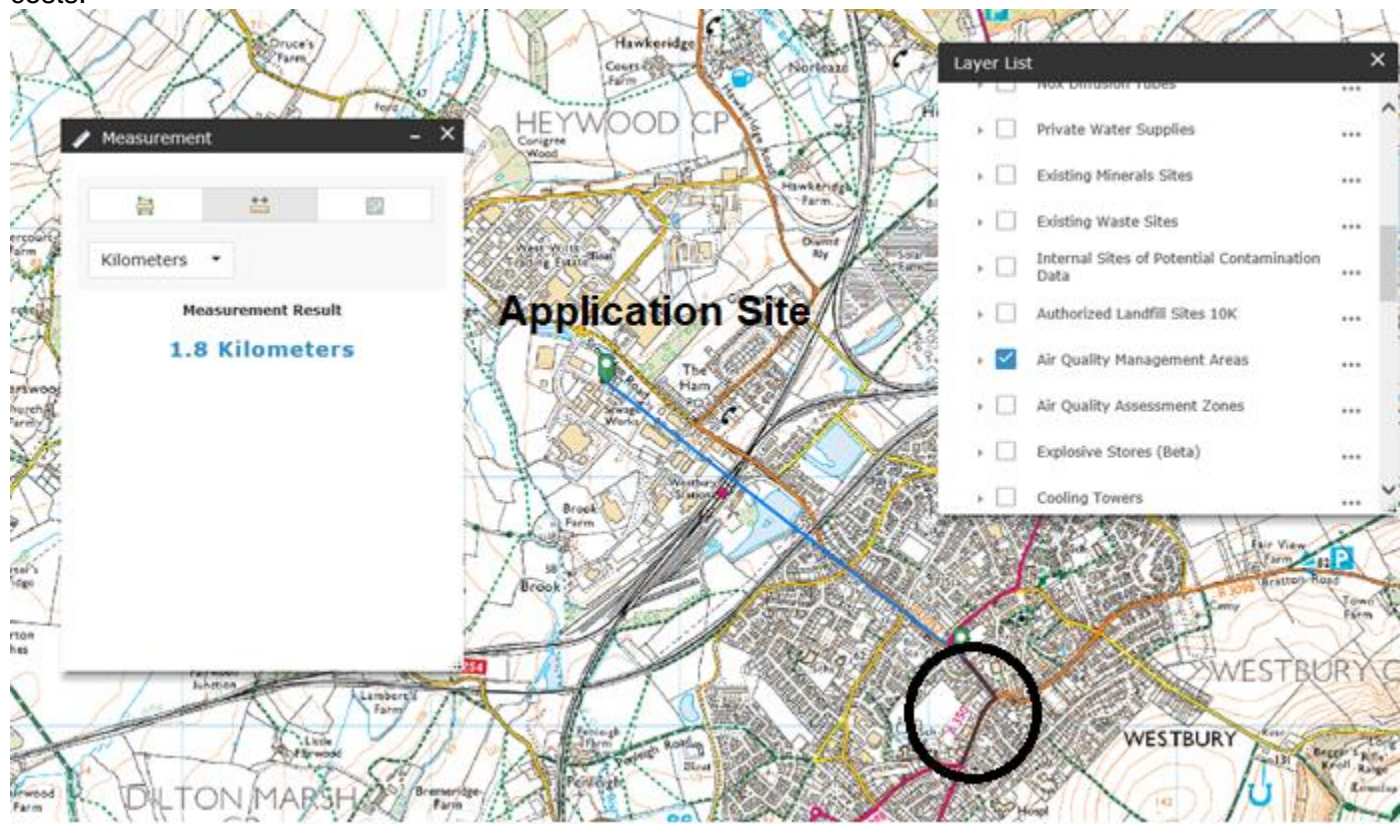
“...there needs to be a connection between the monies sought and the mitigation measures to be undertaken, just as there needs to be a connection between the mitigation measures and the impact otherwise predicted...It must be identifiable that the monies will go to measures relevant to the predicted impact and that contributions can be pooled to enable that package to be delivered.”

9.3.11. As far as air quality is concerned, based on the evidence and expertise provided, officers submit that the environmental impacts would be materially reduced through securing the cited planning obligation to such a degree that an air pollution effect-based refusal reason would not be considered defensible on appeal, and that it could expose the Council to a costs for unreasonable behaviour.

9.3.12. Pursuant to the above, the Government sets out clear parameters for decision makers when refusing planning permission. Within paragraph 55 of the NPPF, the Government directs that

*“Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition”.*

9.3.13 Officers are very keen to deliver betterment in all forms and appreciate that this form of development would produce some air pollution, and that the additional use of fossil fuels weighs significantly against the application. However, the delivery of the proposed power plant to support electricity supplies merits significant weight; and as reported above, securing a developer contribution of circa £23k for the referenced air quality improvement project, would contribute towards providing air quality betterment which also merits significant weight in the planning balance and determination. The sum quoted would not however solely fund the traffic optimisation project, but there is no reason why the cost of the works could be funded by CIL receipts as well as through s106 obligations, if the authority decided to deliver the improvement works as a priority (and not necessarily wait until all monies are secured through developer obligations). Ultimately the decision of if and when the traffic optimisation project is delivered is a matter for the Council to make in terms of its infrastructure priorities. In simple terms, the applicant is willing to fund a reasonable proportion of the costs.





9.3.14 this application has been subject to extensive assessment and officers have engaged widely to gain a full appreciation of the effects and impacts of the development proposal; and officers are satisfied that the identified mitigation would deliver tangible air quality improvements within the AQMA. The application site is not located within Westbury’s AQMA, and is instead, some 1.8km to the north-west as shown on the previous page using a green pin drop marker located to the southwest of the Ham – with the designated AQMA being highlighted within the black circle.

9.3.15 Planning officers are satisfied that there is a necessity to secure developer contributions from the applicant to be enshrined within a s106 legal agreement which would need to be sealed prior to the issuing of any planning permission, for the sum quoted being £23,333.31 to fund the identified project that would deliver air quality betterment. The applicant has confirmed a willingness to enter into a legal agreement with the Council and to pay this sum should members decide to endorse this recommendation. However, in the absence of any agreement, should members decide to refuse planning permission for substantive planning reasons, the lack of a sealed s106 should be included as an additional reason for refusal (although it should be acknowledged that at any subsequent appeal stage, the applicant would be entitled to produce a Unilateral Undertaking at their own cost which would need to be shared with the Council and the appointed planning inspector to address the legal obligation, if the applicant remains minded to agree to such a financial burden, which would subsequently remove the reason for refusal).

9.3.16 On the basis of the above, the Council’s planning and public protection officers (and supported by legal advice) consider that with the appropriate mitigation, this application is compliant with adopted Wiltshire Core Strategy Core Policy 55, its objectives, and the Framework, including paragraph 186 which sets out that “opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement.

**9.4 Environmental Impacts – Noise and Neighbouring Amenity:**

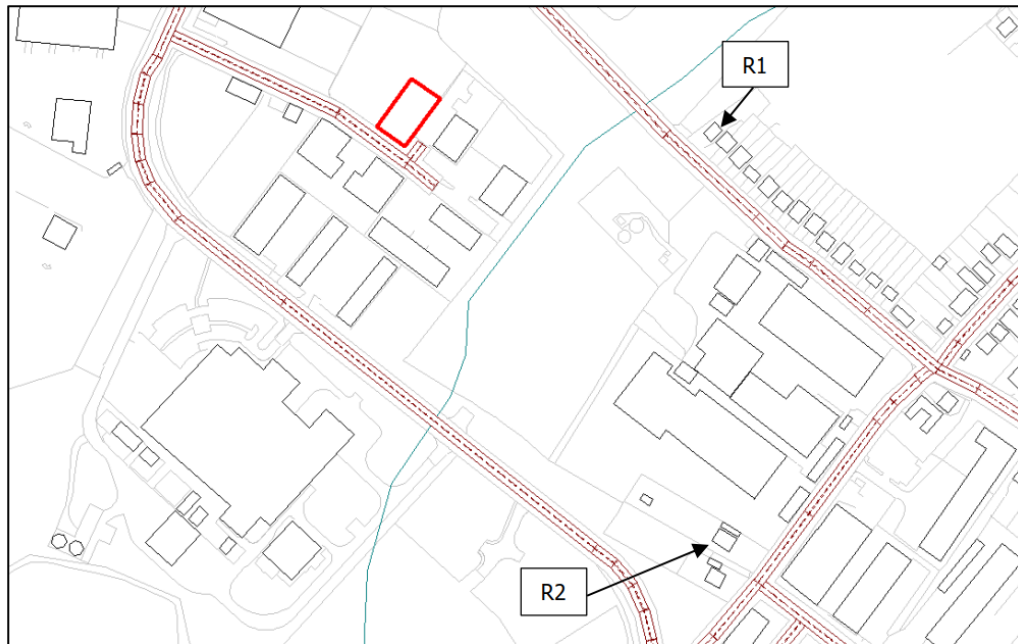
9.4.1. Officers note that none of the third-party representations received from local residents occupying residential properties along Storridge Road or Hawkeridge Park have specifically cited concerns over noise, but three adjacent industrial/employment units on Kingdom Avenue have raised concern over noise intrusion.

9.4.2. Following receipt of these concerns, the applicant submitted noise mitigation measures as enshrined within document reference 784-A118713 – dated 12 May 2021 which proposes the fitting of silencers on the generators, which when applied would equate to a generator noise of 55dB at 10m distance, which is considered acceptable in public protection terms. The following inserts refer to the noise assessment which is further explained in paragraph 9.4.3.

**Table 1.0 BS 4142 Noise Assessment for Generators**

Ref	Representative Background $L_{A90}$		Specific Noise Level dB(A)	Rating Level dB(A)	Rating Level Relative to Background dB(A)	
	Daytime	Night-time			Daytime (Ground Floor)	Night-time (First Floor)
R1	36	35	33 Ground Floor 33 First Floor	35 35	-1	0
R2	40	40	19 Ground Floor 21 First Floor	21 23	-17	-17

**Figure 3.2 Receptor Locations**



9.4.3. In appraising the projected level of noise on the nearest residential receptors (R1 being No 25 Storridge Road and R2 being a property known as 'Crosslands' on Brook Lane), the noise assessment concluded that: -

*“the predictions presented within Table 1.0 [included on the previous committee report page], noise levels at the Receptors are no greater than 1dB below the background noise levels during the daytime and equal to or below the background noise levels during the night-time”.*

9.4.4. The submitted details state that in a worst-case scenario, the gas-fired power plant would be in use for approximately 3000 hours in any given year (approximately 8.2 hours a day) and would be expected to be called upon at times of peak demand to supplement the national grid (which is typically during the day-time and early evening). Whilst night-time operations cannot be completely ruled out, this would most likely be the exception rather than the rule when the background noise levels would be typically lower. However, the noise assessment, with the aforementioned silencers being fitted to the generators, the noise levels from this proposed facility would not exceed the background noise levels. The Council's environmental health officer is satisfied that the proposed development would harmfully impact neighbouring residential amenities, with the closest dwelling being over 200m away distant.

9.4.5. With the mitigation measures in place resulting in a noise level of 55dB at 10m, officers are furthermore satisfied that such noise levels would not result in materially harming the business operations within the existing industrial estate – which as previously referenced is an allocated employment site where various land uses are encouraged including B1, B2 and B8 uses (with Class B1(a) uses being deleted and subsumed into a new Use Class E on 1 September 2020, whereas Use Classes B1(b and c) remain in operation). B2 uses include heavy industry and manufacturing processes; and whilst the noise and disturbance impact of any potential new industrial development would still be fully appraised, based on the details submitted and appraised, officers are satisfied that the proposed development would not be materially harmful or incompatible with the existing adjoining buildings and uses.

9.4.6 As far as noise impacts are concerned, the proposal is considered compliant with the Adopted WCS, the (NPSE) Noise Policy Statement for England and the NPPF.

## **9.5 Highways Impacts**

9.5.1. No highway-based objections or concerns are raised by officers. The development is predicted to generate a moderate volume of vehicle movements during the construction period which is targeted to last for 4–6-months – with the following detail enshrined within the submitted Construction Traffic Management Plan which officers recommend should be subject to a bespoke planning condition.

Projected Traffic Generation During Construction:

- 12no. 18m low loader;
- 18no. 15.4m articulated lorry;
- 1no. 8m tanker lorry;
- 10no. 10m rigid lorry; and
- 1no. 160-300tn Crane.

9.5.2. The above quoted level of vehicle movement for this development proposal would not result in unacceptable impacts to highway safety or residual cumulative impacts to warrant a refusal of planning permission (NPPF para 111 refers).

9.5.3 Following the construction period, the facility would not require significant traffic generation, and would only require visits by site operatives and for maintenance purposes comprising of up to three small vans or 4x4 type vehicles per week.

9.5.5 No highway-based concern is raised to the proposed new vehicular access, subject to conditions and the development would be compliant with adopted WCS policy and highway standards and the NPPF.

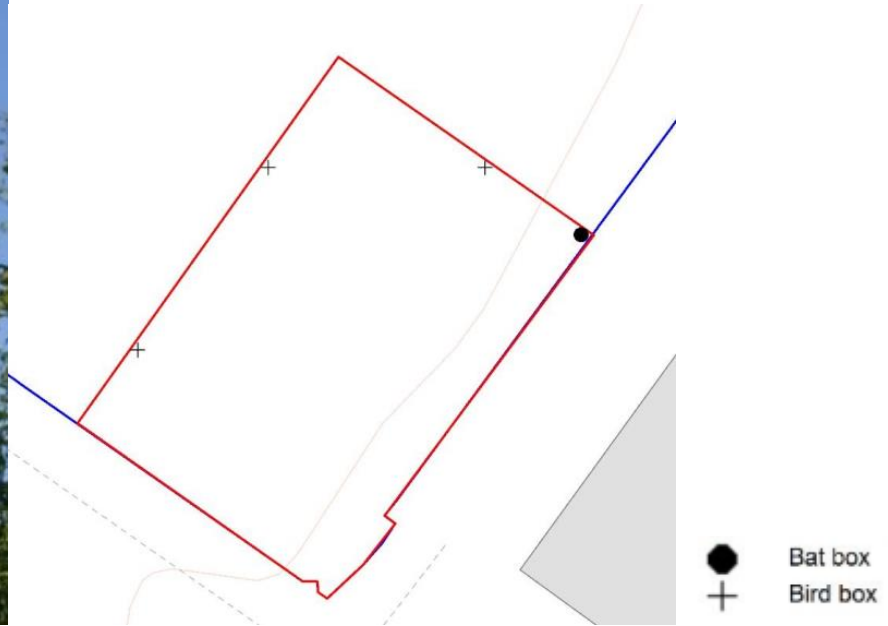
## **9.6 Impact upon the setting of a local Heritage Asset, flood risk and ecology impacts**

9.6.1. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires ‘*special regard*’ to be given to the desirability of preserving a listed building or its setting. The only heritage asset with an historic connection with the site is StorrIDGE Farmhouse which is located approximately 435m to the west of the application site and there is little/no intervisibility. Also, on the intervening land, there are a number of industrial buildings which has led officers to conclude that this application proposal would have no material impact or harm on the setting of the listed farmhouse and would have no impact its historic significance.

9.6.2. The application site is within flood zone 1 and officers have no concerns to report on drainage grounds.

9.6.3. The Council’s ecologist reviewed the ecology submission for this application and concluded that there would be no likely impacts to the Bath and Bradford-on-Avon Bats SAC and no ecology-based concern has been raised.

9.6.4. The application site is currently just land filled with hardcore and has no bio-diversity value. However, Paragraph 174 (d) of the NPPF encourages where possible, that planning decisions contribute to the natural environment by providing net gains for biodiversity. Given that the site would remain a compound with a hard top surface, officers have sought to secure the provision of one bat box and three bird boxes. The bat box would be pole mounted and the bird boxes would either be pole mounted or secured to the boundary security fence as shown on the following inserts.



Bat Box example and indicative proposed locations of the bat and bird boxes

## 10. Conclusion

Officers acknowledge that the burning of gas to fuel this proposed power plant facility would increase the level of air pollution in an area that has recorded exceedances of the annual average levels for nitrogen dioxide (NO<sub>2</sub>) and fine particulates (PM<sub>10</sub>). However, following lengthy negotiations with the applicant and their appointed consultants, and direct engagement with colleagues within the Council's public protection team, planning officers are satisfied with a combination of planning conditions and a planning obligation to secure a developer contribution, mitigation measures would substantively reduce the environmental effects pursuant to noise and air pollution – to enable the application to be compliant with the adopted Wiltshire Core Strategy Core Policies 55 and 57 and with the National Policy Statement for England (NPSE) and the National Planning Policy Framework (NPPF).

Officers also fully acknowledge that whilst there is a long-term ambition to reduce reliance on fossil fuels and reach a position of carbon neutrality by 2050, the use of fossil fuels in the energy mix remains an essential and viable option to meet peak electricity demand. The use of fossil fuel for power generation is supported by the Government and recent appeals evidence that gas-fired power generation facilities form part of the energy supply mix. They are not obsolete, and in this particular case, the proposal is not considered contrary to national or local planning policy, and consequently, officers recommend that members endorse the recommendation to approve the application subject to the following:

**11. Recommendation – Through taking into account all the material planning considerations as outlined in this report, it is recommended that the committee delegates authority to the Head of Development Management to grant planning permission subject to the planning conditions and informatives listed below following the completion of a s106 legal agreement pursuant to the Town and Country Planning Act 1990 to secure a £23,333.31 developer contribution to mitigate against the environmental air quality effects in Westbury.**

---

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 approved shall be for a temporary period of 25 five years, which would begin upon bringing the generation power plant into use. Thereafter, all the buildings, structures and plant hereby permitted shall be removed, and the land restored to its former condition within 6 months, in accordance with a scheme of work that shall first have been submitted to and approved in writing by the local planning authority.

If the site ceases to be used for electricity generation within the 25-year temporary period, all the buildings, structures and plant hereby permitted shall be removed, and the land restored to its former condition within 6 months of its last use, in accordance with a scheme of work that shall first have been submitted to and approved in writing by the local planning authority.

REASON: In the interests of the visual amenities of the area.

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

Covering letter, Planning Statement, Ecological Assessment (dated 29 October 2020), Noise Report, Construction Management Plan, Air Quality Report and Heritage Assessment, Site Location Plan, Existing Site Plan, Proposed Site Plan, CCTV Elevation Plan, Gate and Fence Elevation Plan, Gas Kiosk Plan, Electrical Sub-Station plan, Oil Tank Plan and Elevations, Proposed Access Junction Layout Plan, Gas Engine Elevation with Stack Plan, Transformer Details, Gas Engine Plan and Isometric View, Electrical Substation Elevation Plans and Swept Path Analysis – all received 18 December 2020

Updated Ecology Statement (dated 13 November 2020) – received 20 January 2021

Tetra Tech Updated Air Quality Assessment – April 2021 – received on 5 May 2021

Tetra Tech 784-A118713 Statement dated 12 May 2021 and J420 SuSi Container Concept Review – both received 14 May 2021

Bio-diversity Enhancement Strategy (with updated bat and bird box site plan) – dated 20 October 2021 and received 22 October 2021

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

4. The noise mitigation as set out in the report produced by *Tetra Tech dated 12 May 2021 (Ref 784-A118713)* and accompanying document titled *J420 SuSi Container Concept Review* shall be implemented in full so as to reduce the specific noise from the generators to be no more than 55 dBA measured at 10m distance as measured by a sound level meter in accordance with measurement method BS EN ISO 3744: 2010. In addition, the stated noise mitigation shall be maintained as such in perpetuity (or for the lifetime of the use of the generators, and that any replacement generators have the same silencers applied and be subject to the same noise mitigation).

Reason: In the interests of protecting neighbouring uses and amenity from potentially adverse levels of noise

5. The development hereby approved shall not commence until additional information to support the Construction Traffic Management Plan has been submitted to the Council and obtained its written approval pursuant to the following:

- a. A site plan detailing the parking of vehicles of site construction contractors, site operatives and visitors;
- b. Loading and unloading of plant and materials;

- c. Storage of plant and materials used in constructing the development;
- d. Full details of wheel washing facilities;
- e. Full details of Measures to control the emission of dust and dirt during construction;
- f. Submission of pre-condition photographic surveys of the adjacent highway;
- g. The applicant should contact the Wiltshire Council Area Highway office to agree and arrange a scheme of no waiting cones to be placed on the Public Highway in relation to 18m HGV low loader / crane deliveries, in accordance with the swept path analysis (appendix 1).

Thereafter, the agreed details and the Construction Traffic Management Plan dated November 2020 shall be adhered to throughout the construction period.

Within 1 month of the development being brought into first use, post-condition photographic surveys of the adjacent highway shall be submitted to, and approved in writing by the local planning authority.

REASON: To minimise detrimental effects to the neighbouring amenities, the amenities of the area in general, detriment to the natural environment through the risks of pollution and dangers to highway safety, during the construction phase.

NOTE: Pursuant to requirement f) listed above, the applicant should note that the Highway Authority will pursue rectification of any defects identified by the highway condition survey which can be attributed to the site construction traffic under the provision of S59 of the Highways Act.

6. No part of the development hereby permitted shall be first brought into use until the access, turning area and parking spaces have been completed in accordance with the details shown on the approved plans.

REASON: In the interests of highway safety

7. No part of the development shall be first brought into use, until the visibility splays as shown on the approved proposed access junction layout plan (providing 2.4m x 43m visibility) have been provided with no obstruction to the visibility at or above a height of 0.6m above the nearside carriageway level. Thereafter, the visibility splays shall be maintained free of obstruction at all times.

REASON: In the interests of highway safety.

8. Prior to the development hereby permitted first being brought into use, provision shall be made within the site for the disposal of surface water so as to prevent any surface water discharge onto the public highway.

REASON: In the interests of Highway safety

9. The development hereby permitted shall not be first brought into use until the proposed fencing to fully enclose the site has been erected on site and shall be maintained as such in perpetuity.

REASON: In the interests of site security and safety.

10. The development shall be carried out in strict accordance with the Ecological Assessment Report (produced by Avian Ecology, dated 13 November 2020)

REASON: For the avoidance of doubt and for the protection, mitigation and enhancement of biodiversity.

11. No external lighting shall be installed on site until full details of the new lighting, including specification and application and lux levels have been submitted to and approved by the Local Planning Authority in writing. Any such submission should be informed by the ecological conditions and how any proposed lighting would impact bat species and habitat.

REASON: To safeguard bats and their habitat.

12. The development hereby permitted shall not be first brought into use, until the bat and bird boxes as detailed within the Biodiversity Enhancement Strategy and as shown within 'Figure 1 bird and bat box locations plan', have been installed on site and thereafter, are retained and maintained for the entirety of the 25-year temporary permission as set out within condition 2.

REASON: In the interests of providing biodiversity betterment and supporting bat and bird habitat.

13. The site shall not be used for the generation of electricity for more than 3,000 hours in any 12-month period. The operator shall maintain a record for all the hours of using the onsite facility and generator runtimes, and the operator shall make this available to the local planning authority upon request.

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.

14. No more than 5 generators, each with a maximum specification of up to 1.5MW engines, shall be installed and operated with the site facility.

REASON: To define the terms of the development

Planning Informatives:

1. The application involves creation of a new vehicle access. The consent hereby granted shall not be construed as authority to carry out works on the highway. The applicant is advised that a licence will be required from Wiltshire's Highway Authority before any works are carried out on any footway, footpath, carriageway, verge or other land forming part of the highway. Please contact our Vehicle Crossing Team on [vehicleaccess@wiltshire.gov.uk](mailto:vehicleaccess@wiltshire.gov.uk) and/or 01225 713352 or visit their website at <http://wiltshire.gov.uk/highways-streets> to make an application.

2. The applicant should contact the Wiltshire Council Area Highway office (central) (01225 712810) / [centralhighways@wiltshire.gov.uk](mailto:centralhighways@wiltshire.gov.uk) to arrange a scheme of 'no waiting' cones to be placed on the Public Highway in relation to 18m HGV / crane deliveries, in accordance with the swept path analysis (appendix 1).

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**IN THE MATTER OF  
THE TOWN AND COUNTRY PLANNING ACT 1990**

**AND IN THE MATTER OF  
LAND AT KINGDOM AVENUE,  
WESTBURY.**

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**OPINION**

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1. I am asked to advise Wiltshire Council in respect of three questions arising from consideration of an application for gas-fired electricity generation units at Kingdom Avenue, Westbury. I set these questions out below.

*Given the Council's resolution to seek to make Wiltshire carbon neutral by 2030, paragraph 186 of the NPPF, core policy 55 of the WCS and the Council's Air Quality Strategy 2019-2024, is the Council required to rely upon the DEFRA Toolkit to calculate the financial contribution required from the Developer based on the NO2 increases expected within the AQMA for Westbury as a result of this development?*

2. No. The Council is not required to use the DEFRA Toolkit.
3. First, I would observe that the predicted NO2 impacts in the Wesbury AQMA is not concerned with the Council's carbon-neutral pledge.
4. Secondly, for the question of air quality impact, neither adopted development plan nor the NPPF is directory as to what methodology may be used to assess any financial contribution to mitigate adverse impacts on the AQMA.

5. Thirdly, far from being obliged to use the DEFRA Toolkit, the Council may consider that the Toolkit is not apt for the purpose of calculating a financial contribution in respect of mitigating impact on the AQMA. This is because the calculation through the Toolkit may be entirely unrelated to the necessary mitigation measures identified to respond to the increased NO<sub>2</sub> levels predicted in the Westbury AQMA (either too high, or, indeed, too low). By Reg 122 of the CIL Regulations, any contribution sought and secured in the s.106 obligation must meet the statutory test of necessity.

*If the Council is not required to rely upon the DEFRA Toolkit calculations but nevertheless seeks to require payments of a financial contribution – can the Council do so, relying upon the requirements of CP 55 and paragraph 186 of the NPPF and rely upon the calculation based upon individual contribution being the sum of £23,333.31 or is it open to the Council to seek a contribution for this development taking into consideration the Council’s Air Quality Strategy 2019-2024?*

6. The Council is entitled to require a payment to contribute to the mitigation strategy within the AQS, or other Action Plan, or a bespoke set of measures, if it is satisfied that, without those mitigation measures, the development would have an unacceptable impact on air quality such that planning permission would be refused. What those measures will be will potentially vary with different levels of impact, and should be devised on the basis of the best available evidence.
7. I do not comment on the actual calculation of the sum mentioned; I merely observe that the principle is to identify the mitigation measures required to mitigate the additional NO<sub>2</sub> contribution within the AQMA, and then costed, with a fairly related contribution to those costs being sought. I understand that is the approach that has been taken

*If the Council seeks a contribution – would the Council then be required to set out exactly what measures will be undertaken using the contribution?*

8. Only within reason.
9. First, there needs to be a connection between the monies sought and the mitigation measures to be undertaken, just as there needs to be a connection between the mitigation measures and the impact otherwise predicted. For example, it would be inappropriate,

if the impact concerns NO2 to institute mitigation in respect of, say, Particulates. To that extent, therefore, it must be identifiable that the monies will go to measures relevant to the predicted impact.

10. Secondly, however, it is perfectly appropriate for the relevant measures to be a package, with contributions from a number of sources being pooled to enable that package to be delivered. The development would be asked to make its proportional contribution to that package, rather than need to point to a specific identified measure within that package that its contribution will be spent on.
11. The overriding principle in play is that the development is only being required to pay a fairly related contribution to a set of mitigation measures which are relevant to the impact otherwise predicted, and without which planning permission would have to be refused.

CHRISTOPHER BOYLE QC

11<sup>th</sup> February 2022

Landmark Chambers,  
180 Fleet Street,  
London,  
EC4A 2HG.

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## REPORT FOR WESTERN AREA PLANNING COMMITTEE

<b>Date of Meeting</b>	<b>9 March 2022</b>
<b>Application Number</b>	<b>PL/2021/06752</b>
<b>Site Address</b>	<b>6 Marshmead, Hilperton</b>
<b>Proposal</b>	<b>Removal of existing garage/kitchen extension &amp; erection of three-bedroom end terrace dwelling.</b>
<b>Applicant</b>	<b>Ms Susan Daniels</b>
<b>Town/Parish Council</b>	<b>Hilperton Parish Council</b>
<b>Electoral Division</b>	<b>Hilperton – Cllr Ernie Clark</b>
<b>Grid Ref</b>	<b>ST86877 - 59757</b>
<b>Type of application</b>	<b>Full Planning Application</b>
<b>Case Officer</b>	<b>Steven Vellance</b>

**Reason for the application being considered by Committee:** Cllr Clark requested that this application be presented to the Western Area Planning Committee if officers are minded to approve the application, to enable members to consider: the visual impact of the proposal on the surrounding area, the relationship with adjoining properties, the design of the proposal and its bulk, height and general appearance, the scheme’s environmental or highway impacts, the scheme’s car parking arrangements, concerns that a part of the development would be built over a sewer; and concerns about the small rear garden for the proposed dwelling.

### 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.

### 2. Report Summary

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

Hilperton Parish Council objects to the application for the reasons set out within section 7 of this report. Eight public representations were received following two public consultation exercises – with the comments summarised within section 8.

### 3. Site Description

The application relates to a 2-storey, semi-detached, reconstituted stone built dwelling and its associated curtilage, located within an established residential area of Hilperton. The immediate area is characterised predominantly by two-storey semi-detached dwellings with the occasional detached property and terraced houses.

The host property at No. 6 Marshmead is orientated to face the road, with a vehicular access and driveway for off-road car parking to the front. The subject property has a single storey side extension, of a lean-to design which includes a kitchen and a garage which also faces the front aspect, as shown in the photograph below:



**Photograph of application site**



The application site extends to about 186sqm and is shown in the following insert and comprises part of the existing host dwelling at No.6 Marshmead and includes the single storey lean-to side addition (as shown in the photo above), which would be demolished and a hardstanding area of approximately 30 sqm that would be set aside for car parking provision to accommodate the proposed development.





#### 4. Planning History

The following planning history to the site is limited and consists of the following:  
W/80/00729/HIS – Marley Sun Lounge - Approved

#### 5. The Proposal

This application seeks full planning permission for the construction of an attached 3-bed dwelling to the southern gable of the host property at No. 6 Marshmead, following the demolition of the existing lean-to side extension. The proposed dwelling would be constructed from rockface block that would match the existing dwelling, and at 7.1m in height, it would continue the ridgeline set by properties numbered 5-8 as shown below:



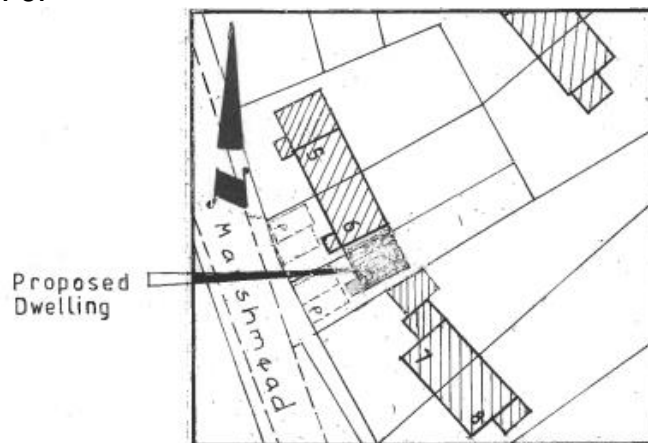
The development proposal includes the provision of a front porch that would be of similar design to what already exists.

The property would have a concrete tiled roof with uPVC fenestration, and the proposed elevations are illustrated below:



#### Proposed front, side & rear elevations

The proposal would make provision for the associated car parking requirements along with providing 93sqm of rear garden amenity space to serve the proposed dwelling. The proposed plan snippet below also reveals the residual rear garden ground and separate car parking that would be retained for No. 6.



Proposed Site Plan

The following insert reveals the proposed floor plans for both the proposed dwelling and what would be retained within the existing property. As notated below, the proposed dwelling would have a kitchen, dining and living room space on the ground floor along with a WC and staircase leading to the first floor which would have 3 bedrooms and a bathroom. A rooflight is proposed for the roof of the host property which is permitted development and does not require consent from the Council.



## 6. Planning Policy

The adopted Wiltshire Core Strategy (WCS) Core Policies (CP): CP1 - Settlement Strategy; CP2 - Delivery Strategy; CP29 – Spatial Strategy–Trowbridge Community Area; CP57 - Ensuring High Quality Design and Place Shaping; CP60 - Sustainable Transport; CP61 - Transport and New Development; and CP64 - Demand Management

Saved West Wiltshire District Plan 1st Alteration 2004 Policy U1a - Foul Water Disposal

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

The Wiltshire Local Transport Plan (LTP) 2011-2026 and Car Parking Strategy

The National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG) are also of material relevance to this application.

The Hilperton 'Made' Neighbourhood Development Plan.

## 7. Summary of Consultation Responses

Hilperton Parish Council:

*"Hilperton Parish Council has considered this application and wishes to reiterate the comments originally made in August this year, when the application was for a three-bedroom detached*

*house. This proposal will still cause over-development of the site, and the bulk and mass will leave inadequate garden space. The Parish Council is concerned about the highways impact, as the road is too narrow for any extra housing, and emergency services will be unable to gain access. It is also understood that the proposed property will be built over an existing sewer, which could inevitably cause problems.”*

Wiltshire Council Highways: No objection subject to conditions. The proposed development would result in no adverse harm to highway interests. A planning condition is required to secure appropriate parking and an informative is necessary to inform the applicant of the requirements for extending an existing dropped kerb.

Wessex Water: No objections. The applicant would need to enter into a ‘Sewer Buildover Agreement’ with Wessex Water and surface water disposal should be dealt with via a SuDS strategy i.e., use of soakaways, which would be secured via Building Regulations. A Wessex Water infrastructure plan is shown below within section 9 of this report.

## **8. Publicity**

This application has been subject to two separate public consultations. Eight representations were received in total, comprising seven objections and one letter of support as summarised below:

Consultation dated 26.07.2021 three objecting representations were received which raised the following:

- Car parking, highway safety and access concerns alongside concerns raised about the narrow carriageway and congestion on the highway.
- The proposal would not be in keeping with the original design of the estate.
- A sewer pipe runs under and between No’s 6 and 7 where there have been problems in the past
- It is considered impractical and inappropriate to construct a dwelling as proposed in the cul-de-sac in an area that has problems with traffic and on-street car parking.

One supportive representation was received that set out the following:

- 50% of the houses down the street have had large side extensions so this proposal will not be out of place as some suggest. Two parking spaces are proposed so it would unlikely cause any parking issues
- We need houses and it is better to build here than in the greenbelt fields

There was a public re-consultation exercise on 8 December 2021 following the submission of revised plans, which resulted in four objecting representations being received which raised the following points

- The cul-de-sac was planned and built for 14 semi-detached houses with a carriageway giving limited access of 14m. There is already a problem with local delivery vehicles and waste collection lorries needing to use this road. Building another house would only exacerbate this, whether terraced or otherwise. It is not practical and not fair on other house owners in the vicinity.
- The roads serving this estate are inadequate to take any more increases in vehicles that would be bound to come with an additional dwelling. I am worried about the damage that occurs to verges when too many vehicles are parked in the road. As the owner of 7 Marshmead I am also concerned about the sewer pipe serving a number of neighbouring properties that runs under the proposed site.

- Concerns are also raised about the over development of the Marshmead estate that has occurred over the years.
- Design concerns and overdevelopment of this residential area, resulting in loss of privacy and reduction in garden size.
- The proposal would create a terrace of three houses, which would devalue No.5.
- There are currently no terraced houses within the road so this is not in keeping with the area. Several of the properties have built extensions however they have either used a step in the join or a porch so that its clear to see that it is an extension and have used the opportunity to increase their drive at the same time this allowing for more cars on their drive.
- Despite the allocation of two off road parking spaces, the proposal shows plans for one standard car and one small car in front of the porch it is very unlikely this will be sufficient for either house with growing families moving in.
- The road is already narrow and building of another dwelling will cause further congestion and difficulties for current residents. Cars already park up on the curb which leaves no room for pedestrians with pushchairs and wheelchairs meaning in some places people have to walk on the road and there is also difficulty with access for service vehicles.
- There are currently other properties in the street that don't have a drive or only have space for one car meaning they have no option but to park on the road/pavement. The proposal of lowering the kerb further to allow access to the existing property would result in a reduction of the only available road parking in the street for those who have no option but to park on the road or for service vehicles.
- Repeated concerns expressed about building over/near a sewer.
- The proposal would be overdevelopment of the plot.

## 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.

Principle of the Development: The application site is located within the large village of Hilperton. 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 Hilperton – where a limited level of up to ten homes (subject to site circumstances) is supported by the adopted Wiltshire Core Strategy (WCS).

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 a considered a moderate shortfall.

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*

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 the delivery of new housing, whilst the Council continues to have a housing supply deficit.

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, and with the absence of substantive harm to any protected area or asset of particular importance; support this application which would deliver one more dwelling in a highly sustainable location that would contribute towards meeting the under supply of housing.

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. 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.

In applying the NPPF tilted balance, and through the absence of substantive harm, officers are supportive of this application and conclude that the principle of development is acceptable.

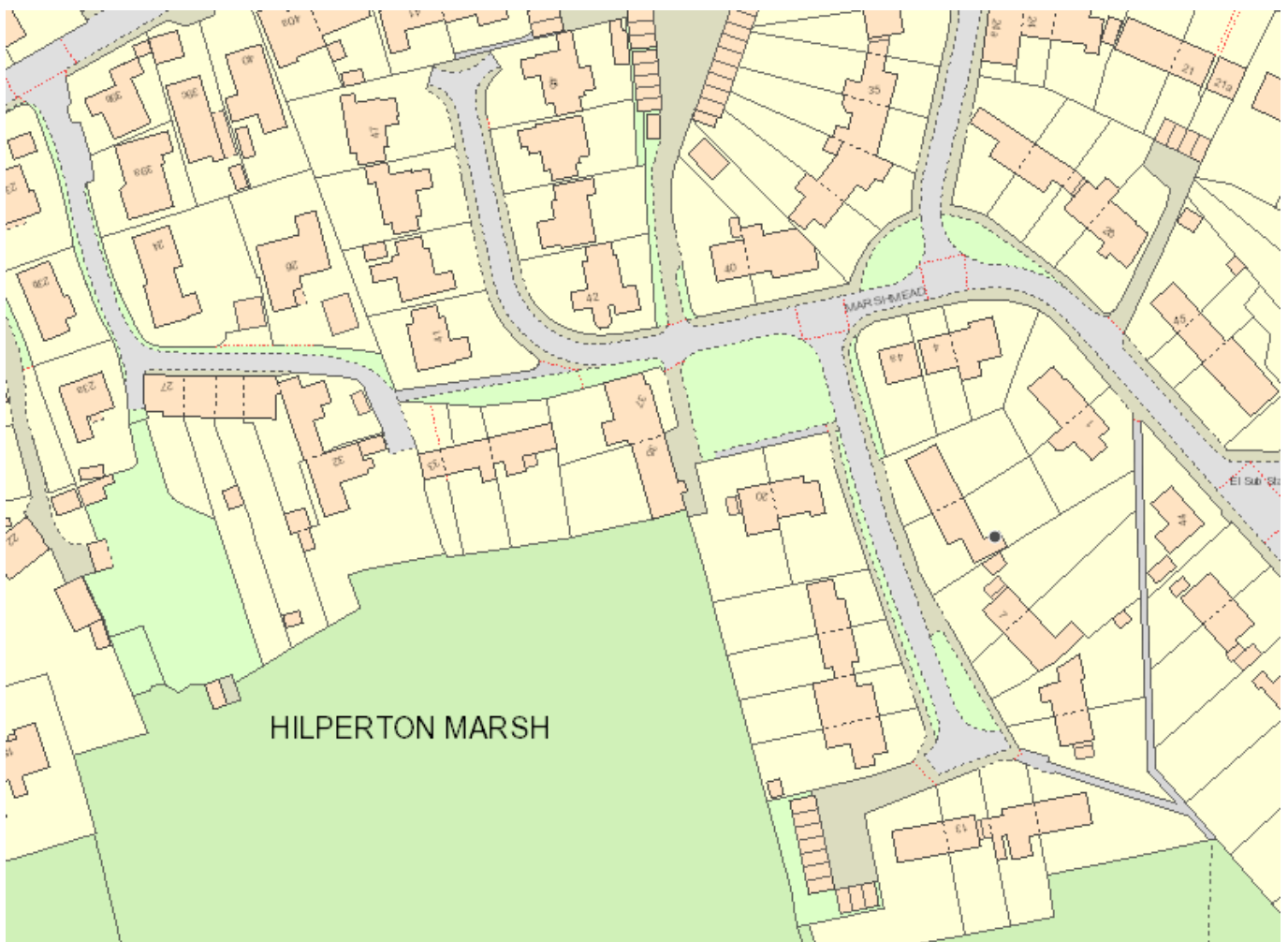
Impact on the Character and the Appearance of the Area: CP57 requires all new development to be of a high standard of design and to create a strong sense of place through drawing on the local context. Part iii of CP57 requires proposals to respond positively to "*the existing townscape and landscape 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*".

The properties found along Marshmead are characterised by predominantly two storeys, semi-detached houses constructed from rockface block walls and concrete tiled roofs.

As the insert map below illustrates, the dwelling at No.4A Marshmead, located to the immediate north of No.5 is a detached two storey dwelling, which obtained planning permission under reference 16/02045/FUL. In addition, the insert below also reveals a varied built form in terms of property orientation, alignment and property juxtaposition.



Whilst the concerns raised by third parties have been noted, officers do not have any concern about the proposed dwelling being constructed off the southern gable of No.6. Whilst it is acknowledged this would create a terrace of three properties, in urban design and planning terms, this would not appear out of keeping. Several properties in the immediate area (including No's 11, 14 and 15) have extended their properties and added two-storey bulk and depth to the originally planned footprints, which does not appear out of keeping or inappropriate and this proposal has full officer support. Also, No's 35-38 Marshmead appear as a terrace in urban design terms.



**Council's map extract of Marshmead, Hilpert.**



**Subject Property**

The proposed new dwelling would require the removal of the current single storey lean-to side extension to accommodate the construction of the proposed dwelling which would respect the building line and would be complementary in terms of its design, size, bulk, roof pitch, fenestration and building materials.



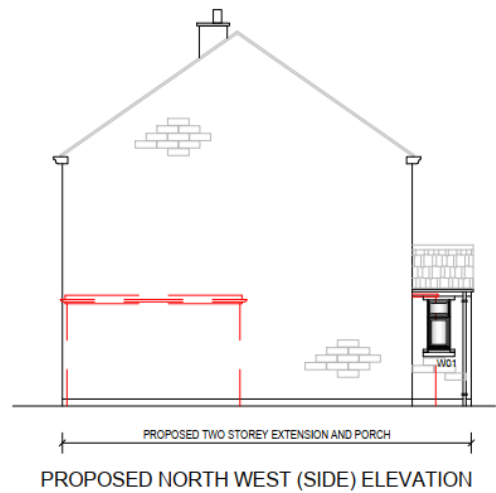
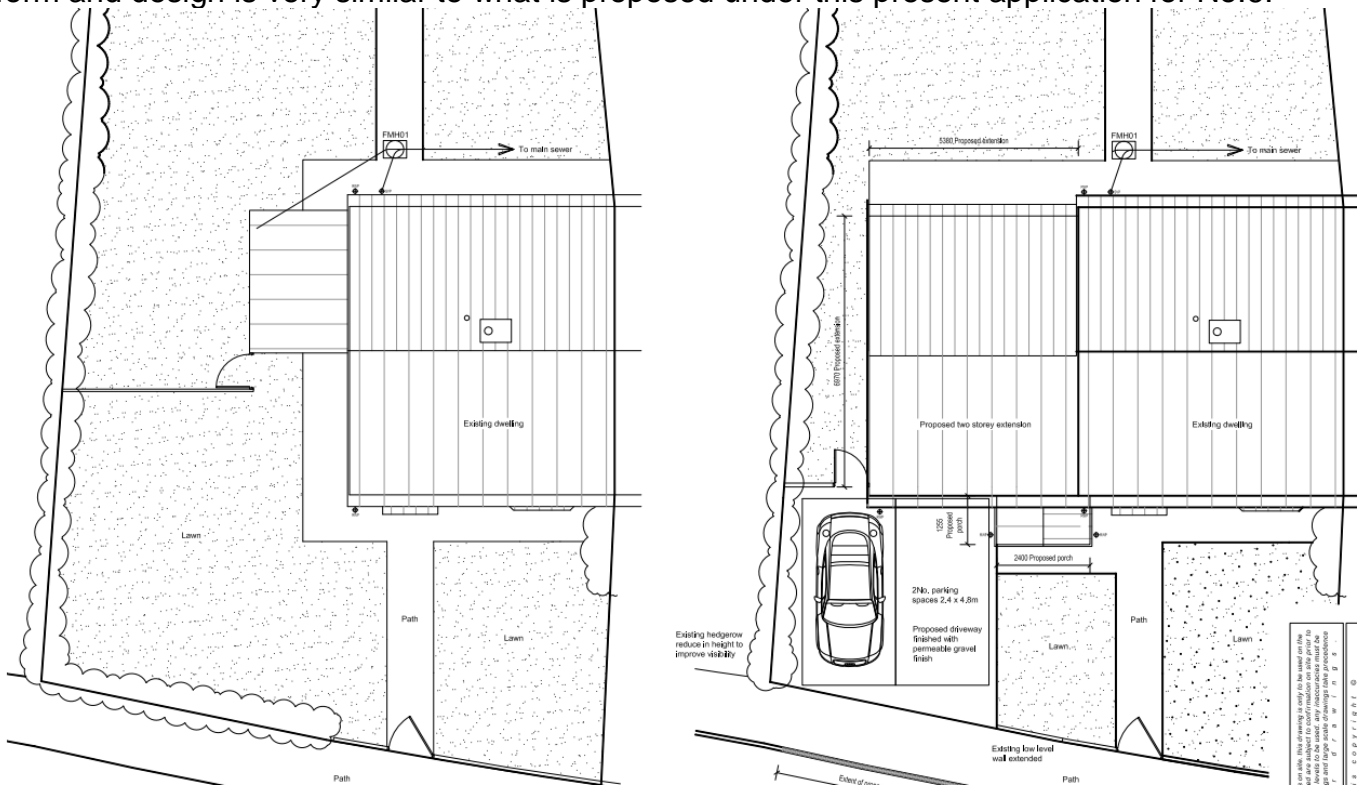
The proposal would not be out of keeping with the prevailing mixed character of the surrounding area and it would not represent as a form of overdevelopment.

Whilst Wiltshire Council does not have a prescribed garden size standard or policy, the Building for Life 12 publication sets out an industry standard for the design of new housing development and recommends as a general 'rule of thumb' that the extent of outside amenity space should as a minimum, be at least equal to the size of the ground floor footprint of the dwelling. In this instance, the garden area to be retained for No. 6 and that proposed to serve the new dwelling, would both exceed this standard. The rear garden for No. 6 would have an area of c.133m<sup>2</sup> and the garden for the proposed dwelling would have an area of about 88m<sup>2</sup>. Likewise, the footprint area of the existing house at No.6 would be 46m<sup>2</sup> and for the new house would be 38m<sup>2</sup>.

As such, officers are satisfied that both properties would benefit from adequate private rear amenity space.

The neighbouring property at No.5 has implemented planning permission for the construction of a two-storey extension granted by 15/09450/FUL, which is evidenced in the above site photograph and was tested against the Wiltshire Core Strategy and NPPF.

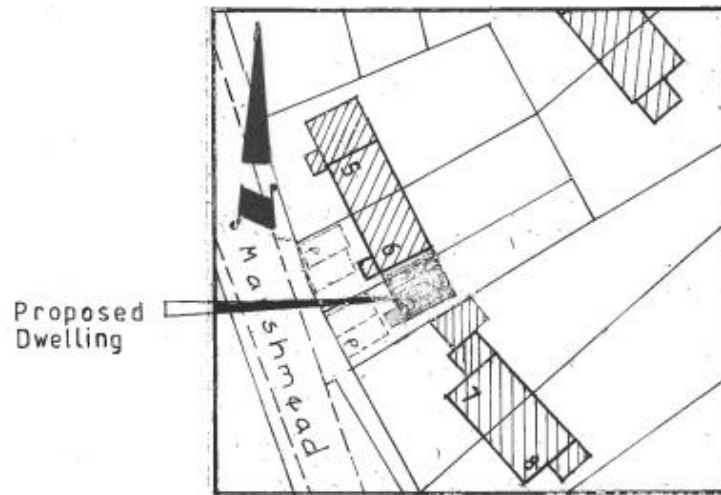
The following block plan insert is of the consented application at No.5 – which in terms of built form and design is very similar to what is proposed under this present application for No.6.



**No.5 Marshmead Plans – as approved under 15/09450/FUL**

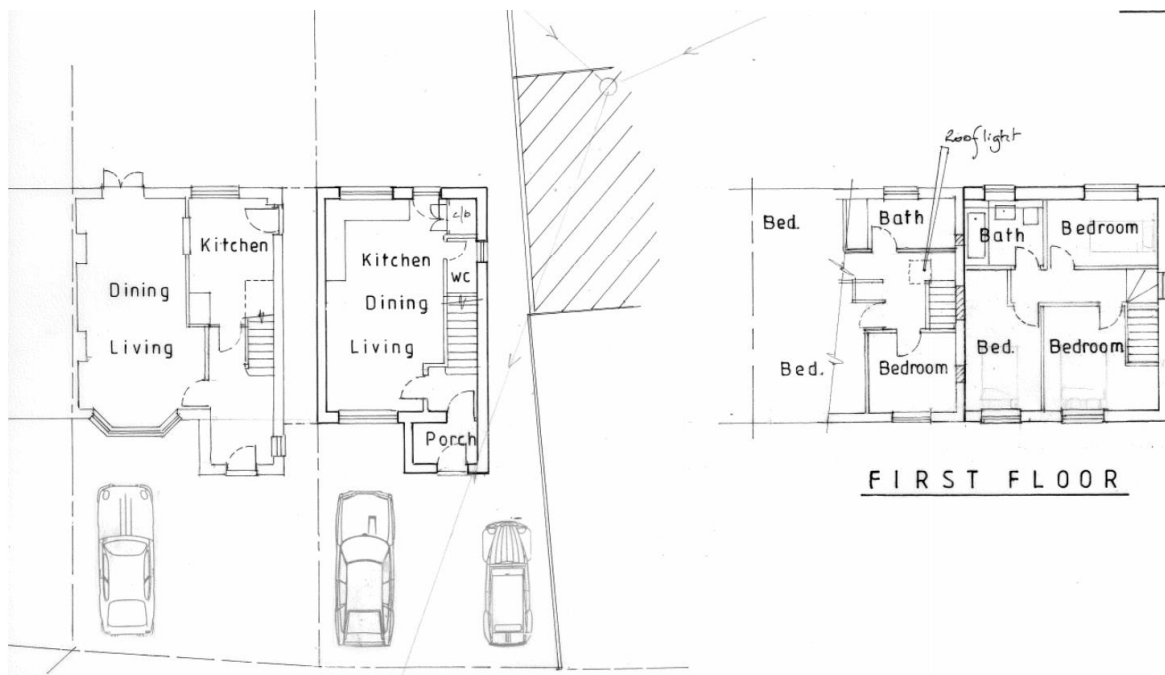
Although implemented as a large side extension, the elevation and roof form at No.5 was approved by the Council and it does not appear out of keeping by extending the original semi-detached building block and the proposal that requires committee determination is also considered acceptable in terms of its relationships with the host property, neighbours and the street scene.





**Proposed Block Plan with car parking annotated**

For No.6, the proposed dwelling would have a kitchen, dining, living room on the ground floor and three bedrooms and a bathroom above, as shown in the submitted plan snippets below. Officers submit that the proposal complies with the requirements of CP57 of the adopted WCS, by reason of the satisfactory design, layout, and use of materials.

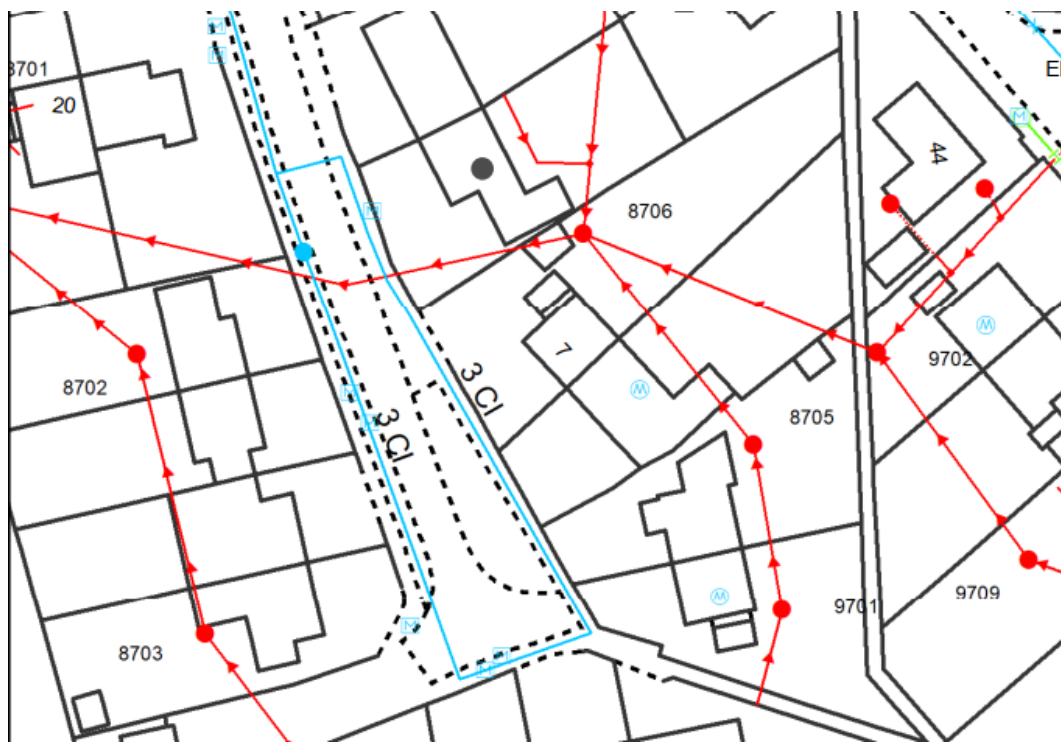


**Proposed floor plans**

Impact on Wessex Water Sewer Infrastructure – During the course of the public notification, officers were informed that the proposal may affect a Wessex Water sewer pipe, which prompted a consultation with Wessex Water, who latterly confirmed having no objection subject to the applicant entering into a ‘Sewer Build over Agreement’ with Wessex Water.

The insert shown on the following page illustrates Wessex Water infrastructure (red lines reflecting the sewer and blue lines representing water mains) on and near to the application site. The above ground floor plan illustrates the existing sewer route which reveals that part of the proposed porch would be built over the sewer. The applicant is aware of the separate requirement to enter into an agreement with Wessex Water and is aware of the need to provide appropriate on-site surface water drainage SUDs, which would be signed off by Building Control under the Building Warrant process.

A planning condition is recommended to secure the details for any soakaways.



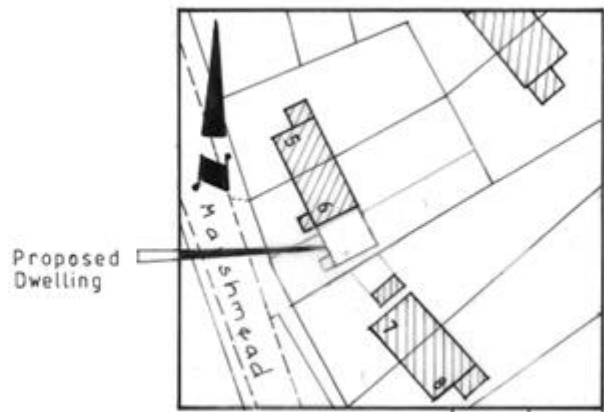
**Wessex Water Infrastructure Plan**

Impact on Neighbouring Amenity for Existing and Future Occupiers: CP57 of the adopted WCS requires development proposals 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)”.

The proposed dwelling would not detrimentally affect neighbouring privacy or amenities. The proposed house would have a front and rear aspect, with windows at ground and first floor level, but given the property orientation and separation distances to neighbouring properties, as shown below, there would be no substantive overlooking or loss of privacy concern.



**Proposed south side elevation of proposal.**



**Proposed site plan.**

The applicant proposes a first-floor window on the southern gable elevation, which would serve a landing, and is proposed to be obscure glazed. At the ground floor level, a window serving a w.c is proposed, and this could also be obscure glazed. With the use of planning conditions, officers are satisfied that the current and future living conditions of the neighbouring occupiers at No.7 would not be significantly harmed in terms of loss of privacy, loss of light, overshadowing or overbearing impacts.

Although not established by local plan policy, the proposed dwelling would satisfy the nationally described space standards as set out within the Technical Housing Standards guidance based on between 3-4 people sharing, which would ensure that the proposed dwelling would be of an adequate size internally capable of family occupation.

The proposed dwelling would occupy about 19% of the site. The proposed ground floor plan of the dwelling would measure about 35 sqm on the 176sqm plot. The proposed rear garden would be more than double the footprint of the dwelling and would thus, exceed the Building for Life Standards. At the front of the proposed dwelling over 53sqm would be dedicated as a front garden and for car parking space.

No. 6 Marshmead would retain adequate garden ground for its current and future occupiers with a 136 sqm rear garden and 50sqm front garden and parking provision.

Officers are satisfied that the proposal would comply with the requirements of CP57 and there would be no conflict with the NPPF.

Highway Matters. Criterion xiv of CP57 of the adopted WCS requires new housing development to meet the requirements of CP61. CP61 requires new development to be capable of being served by a safe access to the highway network. This proposal seeks to utilise an existing access to provide such access and off-road car parking for the proposed dwelling, together with the creation of a new access and off-road car parking for the existing dwelling at No.6. The site plan snippet and photograph below, illustrate that appropriate on-site car parking provision would be available for both the existing dwelling and the proposed dwelling.



**Proposed off road car parking provisions & photograph of the front of the site.**

In this instance, the proposal includes the provision of two on-site car parking spaces to serve the proposed dwelling and a further two spaces for the existing dwelling at No.6. This complies with the requirements of CP64 and the Council's adopted car parking strategy, which requires 2 on-site car parking spaces to be provided for dwellings with 3 bedrooms.

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)

The concerns raised within the submitted representations are duly noted, however in this instance, the required car parking provision would be satisfied for both No. 6 and the proposed dwelling. No highway-based objection has been raised by the Council’s highway officer in relation to the additional traffic and no highway network harm has been identified.

The site benefits from good visibility and the provision of one additional house would not trigger any substantive conflict with paragraph 111 of the NPPF – which is a fundamental requirement if refusing any application on highway grounds.

For this application, the Council’s highways officer confirmed that

*“An additional dropped kerb will be created to allow for access for the existing property and therefore this will reduce the availability of on street parking in the road, however there will still be space for multiple vehicles to park on street in Marshmead and therefore the loss of this on-street space is not considered to be significant and a reason for an objection on highway grounds, in fact I do not believe that I could uphold an appeal argument based on loss of on street parking in this vicinity.”*

This 1-house development would not create material harm to highway interests and the highway officer correctly observes that

*“The road width will not be altered as part of the application and therefore there will not be any impact on emergency vehicles accessing the road or properties due to this development.”*

In light of the aforementioned planning inspectors’ observations, the supportive comments from the council’s highway team, the development is considered acceptable in highway and transport terms, subject to conditions.

**Community Infrastructure Levy (CIL):** This development would be liable to CiL which would require the applicant to complete the CiL liability forms and pay the requisite CiL contributions. The application for one dwelling would not trigger any s.106 obligations.

It should be noted that the proposed new residential development lies within the grey recreational zone of the Trowbridge Bat Mitigation Strategy (TBMS) whereby a CIL contribution is required to ensure that mitigation measures can be provided for the increase in recreational pressures brought about by new housing. The applicant would be charged separately for this as the CIL mechanism has been adapted since the TBMS was adopted by the Council with the requisite funding taken from new CIL receipts at the rate of £641 per new residential dwelling.

**10. Conclusion (The Planning Balance):** The proposed development is considered to comply with the requirements of the adopted Wiltshire Core Strategy in particular CP1, CP2, CP29, CP57, CP60 and CP61 as well as the NPPF and the made Hilperton Neighbourhood Plan. As such, it is considered that planning permission should be granted subject to conditions.

**RECOMMENDATION: Approve subject to the following conditions:**

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

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

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

Existing ground floor plan & elevations received on 02.07.2021. Site location plan & block plan, proposed floor plans, proposed elevations received on 17.11.2021. Proposed street scene, proposed block plan with car parking received on 18.01.2022.

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

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

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

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), no development within Schedule 2, Part 1, Class A, shall take place on the dwelling house hereby permitted or within their curtilage.

REASON: In the interests of the amenity of the area and to enable the Local Planning Authority to consider individually whether planning permission should be granted for additions, extensions or enlargements.

5. No development shall commence above ground floor slab level until a scheme for the discharge of surface water from the site (including surface water from the access for the new dwelling), 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.

6. The development hereby approved shall not be brought into use until the requisite off-site foul water drainage connections have been secured and is ready for use.

REASON: To define the terms of this planning permission.

7. No development shall commence above ground floor 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 on the land;
- full details of all existing trees 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;
- 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.

8. 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.

9. No part of the development hereby permitted shall be occupied until the access & parking spaces have been completed in accordance with the details shown on the approved plans. Thereafter, it shall be maintained for those purposes and kept free from obstruction.

REASON: In the interests of highway safety.

10. The development hereby permitted shall not be occupied until the first 5m of the access, measured from the edge of the carriageway has been consolidated and surfaced (not loose stone or gravel). The access shall be maintained as such thereafter.

REASON: 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 been submitted, it should be submitted now so that the Council can determine the CIL liability.

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:

<https://www.wiltshire.gov.uk/dmcommunityinfrastructurelevy>

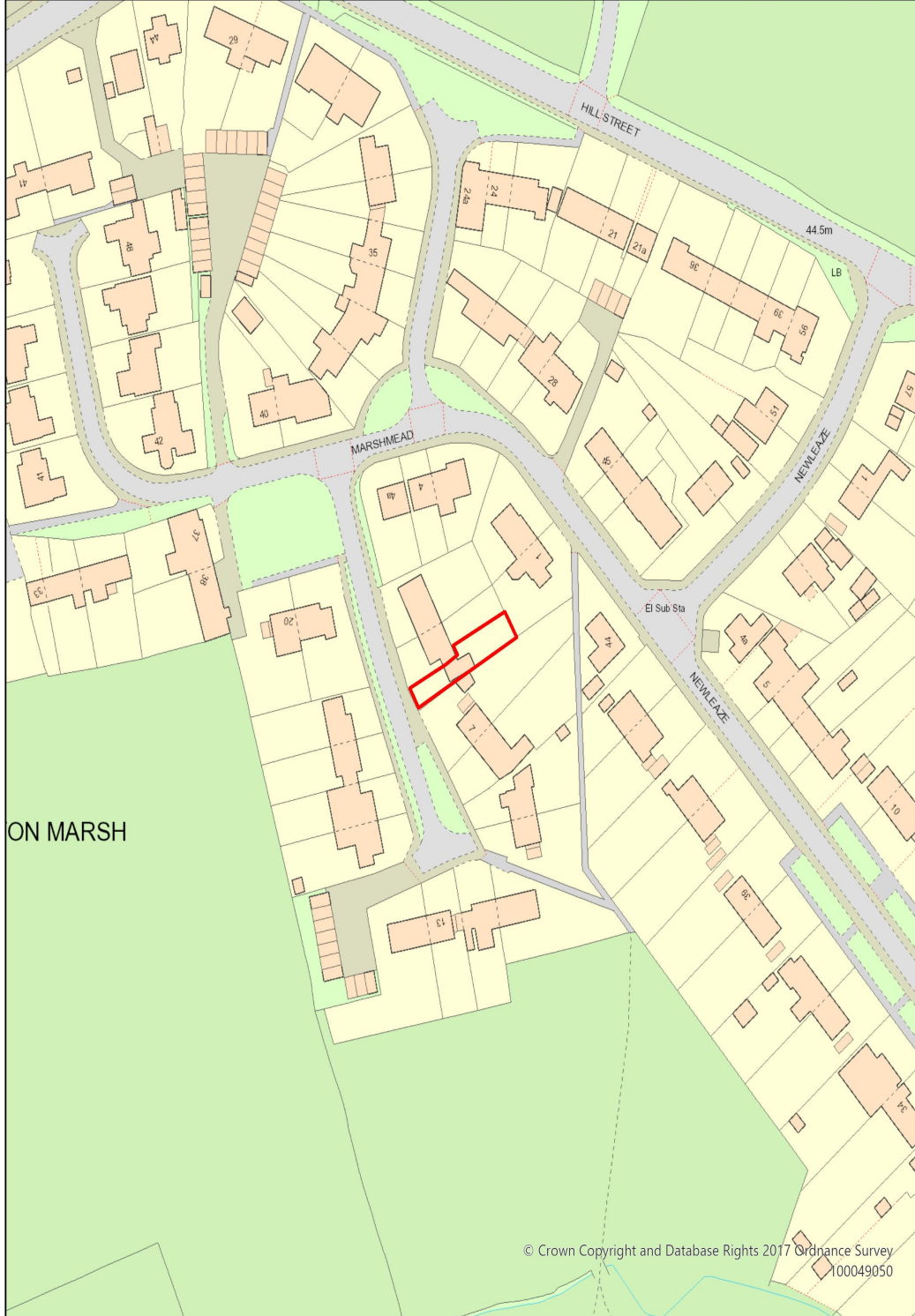
2. Any alterations to the approved plans, brought about by compliance with Building Regulations or any other reason must first be agreed in writing with the Local Planning Authority before commencement of work.

3. The application may involve the need for a new dropped kerb. The consent hereby granted shall not be construed as authority to carry out works on the highway. The applicant is advised that a licence will be required from Wiltshire's Highway Authority before any works are carried out on any footway, footpath, carriageway, verge or other land forming part of the highway. Please contact our Vehicle Crossing Team on: [vehicleaccess@wiltshire.gov.uk](mailto:vehicleaccess@wiltshire.gov.uk) and/or 01225 713352.

4. The applicant is required to contact Wessex Water and to enter into a 'Sewer Build over Agreement' pursuant to the proposed development and existing underground sewer infrastructure.

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