

AGENDA

Meeting: Western Area Planning Committee

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

Date: Wednesday 12 April 2023

Time: 3.00 pm

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

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

This Agenda and all the documents referred to within it are available on the Council's website at www.wiltshire.gov.uk

Membership:

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

Substitutes:

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

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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](#).

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AGENDA

Part I

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

1 **Apologies**

To receive any apologies or substitutions for the meeting.

2 **Minutes of the Previous Meeting** (*Pages 5 - 8*)

To approve and sign as a correct record the minutes of the meeting held on 18 January 2023

3 **Declarations of Interest**

To receive any declarations of disclosable interests or dispensations granted by the Standards Committee.

4 **Chairman's Announcements**

To receive any announcements through the Chair.

5 **Public Participation**

The Council welcomes contributions from members of the public.

Statements

Members of the public who wish to speak either in favour or against an application or any other item on this agenda are asked to register **no later than 10 minutes before the start of the meeting**. If it is on the day of the meeting registration should be done in person.

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

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

Questions

To receive any questions from members of the public or members of the Council received in accordance with the constitution which excludes, in particular,

questions on non-determined planning applications.

Those wishing to ask questions are required to give notice of any such questions in writing to the officer named on the front of this agenda no later than 5pm on **Wednesday 5 April 2023** 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 7 April 2023**. Please contact the officer named on the front of this agenda for further advice. Questions may be asked without notice if the Chairman decides that the matter is urgent.

Details of any questions received will be circulated to Committee members prior to the meeting and made available at the meeting and on the Council's website.

6 **Planning Appeals and Updates** (*Pages 9 - 20*)

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

Planning Applications

To consider and determine the following planning applications.

7 **PL/2022/05120 - Land off Ashton Rise, Hilperton, Trowbridge** (*Pages 21 - 50*)

The erection of a five-bedroom detached dwelling with attached double garage and associated private garden with vehicular access off Ashton Rise, including the re-routing of an existing footpath.

8 **PL/2022/08930 - Bekson Farm, 54 Whaddon Lane, Hilperton, Trowbridge** (*Pages 51 - 86*)

Revised submission for the retrospective permanent siting of a Biomass boiler with a 6m high flue and container for the control unit (Resubmission of PL/2021/10373)

9 **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

Western Area Planning Committee

MINUTES OF THE WESTERN AREA PLANNING COMMITTEE MEETING HELD ON 18 JANUARY 2023 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 Stewart Palmen, Cllr Pip Ridout, Cllr Jonathon Seed, Cllr David Vigar and Cllr Suzanne Wickham.

Also Present:

Cllr Jane Davies.

1 **Apologies**

An apology for absence was received from Councillor Edward Kirk.

2 **Minutes of the Previous Meeting**

The minutes of the meeting held on 14 December 2022 were presented, and it was,

Resolved:

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

3 **Declarations of Interest**

There were no declarations from members of the Committee.

During the meeting Councillor Jane Davies, speaking in respect of application PL-2021-10237, declared her role as Cabinet Member for Adult Social Care, SEND, and Inclusion.

4 **Chairman's Announcements**

There were no Chairman's Announcements.

The Chairman gave details of the exits to be used in the event of an emergency.

5 **Public Participation**

The procedure for public participation and consideration of applications was detailed.

6 **Planning Appeals and Updates**

Kenny Green, Development Management Area Team Leader, presented an update on planning appeals as detailed in the agenda papers.

It was then,

Resolved:

To note the Planning Appeals Update Report.

7 **Planning Applications**

The Committee considered the following application.

7a PL-2021-10237 - The Old Vicarage and Staverton House, 51a New Terrace, Staverton, BA14 6NX

Public Participation

Alan Finn spoke in objection to the application.
Eric Anderson spoke in objection to the application.
Ashley Jones spoke in support of the application.
Claire Turner spoke in support of the application.
Rob Gillespie spoke in support of the application.

David Cox, Senior Planning/Conservation Officer, presented a report recommending that permission be granted for the demolition of the old Vicarage former care home (whilst retaining Staverton House care home) and approve the erection of a replacement building that would provide (alongside the existing Staverton House accommodation) up to 52 bedrooms for people requiring dementia care. The case officer informed members of several typographical errors set out within the published report and advised that following its publication, three additional representations has been received, but nothing new had been raised.

Prior to the committee meeting, a member site visit had taken place earlier in the afternoon which allowed the case officer to walk committee members around the site and point out site specifics and neighbouring properties.

Key issues for the determination of the application included the principle of development, the scale and design of the proposal, the loss of the Victorian former Vicarage building (which officers consider merited non designated heritage asset status) and its impact on the streetscene and neighbouring amenity.

The case officer also pointed to the growing demand for care home placements, and in particular, for those with dementia. The limitations of the Old Vicarage building were also noted in terms of satisfying modern care home standards and operational needs; and the report referenced its closure for these reasons.

Measures proposed to mitigate the impacts of the replacement building were explained, which included negotiated aspects secured through revised plans to reuse some of the old stonework, window and surrounds and introduce bay windows into what would be a new road facing elevation.

Members were informed that the reported and recommended conditions required some amendment to condition 10 to reference No.52 alongside No.50b, and to impose a no dig restriction around all the retained trees on the site as an additional planning condition.

Members of the Committee then had the opportunity to ask technical questions of the officer. An explanation and details were sought on the recommended imposition of obscure glazing on the eastern side elevation of what would be the three-storey central link building, and further clarity was sought on the consequential impacts on the amenity of neighbouring residents as well as the implications for future residents of the care home.

Questions were asked about the re-use of the existing stone of the Old Vicarage and on how the number of proposed parking places to be included on the site had been calculated.

Members of the Public then had the opportunity to address the Committee with their views and concerns as detailed above.

Councillor Jane Davies, Cabinet Member for Adult Social Care, then spoke regarding the application, noting the shortage of specialised dementia care in Wiltshire and the rising demand. The committee also heard about the inability to retrofit some existing care homes to meet modern requirements which had in this case, led to the old Vicarage no longer being used for nursing care, resulting in the loss of 20 bedrooms.

A point was raised about the Cabinet Member addressing the Committee on the application. Officers advised that there was no issue regarding the Cabinet Member providing their view of the factors relevant to the application, and it remained for the Committee to assess it on its planning merits.

The Local Member, Councillor Trevor Carbin, then spoke in objection to the application, noting the history of the site and the construction of the old Vicarage that had come about following community action in 1860 and although the building has been extended with conservatories and other modern interventions, its essential architectural form contributing positively within the streetscene and local character, and the officer view of it meriting non designated heritage asset status, was supported.

It was also acknowledged, as set out in the committee report, that planning judgement was required in terms of weighing up the loss of the non-designated heritage asset of the Old Vicarage, and the planning merits and impacts of the new building. Councillor Carbin set out his concerns about the cumulative impacts on surrounding properties, and whilst accepting there was a growing need for providing more care home accommodation, the role of the committee

centred on evaluating the planning merits and assess the application against the relevant planning policies set out in the adopted Wiltshire Core Strategy and the NPPF.

Councillor Carbin proposed that the application should be refused on neighbouring amenity impact and design grounds by virtue of its bulk (especially the three-storey element) and its relationships with neighbouring properties – citing a policy conflict with CP57 and NPPF paragraph 130; and, in addition, the application would result in the loss of an important non-designated heritage asset that would not result in a new building of higher quality or conserve local distinctiveness and character. The demolition aspect was not supported citing CP57, CP58 and NPPF paragraph 203. The motion to refuse was seconded by Councillor Ernie Clark.

The Committee then debated the application. The existing use of the site and its impact on amenity was discussed, along with the amenities for future occupants of the care home. Additional potential reasons for refusal were discussed, along with the acknowledging the growing need for care home provision, but it was concluded that this application must be determined on planning grounds.

At the conclusion of debate, it was then,

Resolved:

To REFUSE planning permission for the following reasons:

The proposed development by virtue of its bulk and design and relationship with the site's immediate neighbours, is considered unacceptable and in conflict with adopted Wiltshire Core Strategy Core Policy 57 and NPPF paragraph 130. The proposal would not result in a high quality of development or be complementary to the locality. The proposal would result in a material loss of amenity to neighbouring properties through overbearing and overlooking and the proposed demolition of the Old Vicarage building would result in the unacceptable loss of a non-designated heritage asset that contributes positively to the character of the village contrary to WCS Core Policy 57, 58 and NPPF paragraph 203.

8 **Urgent Items**

There were no urgent items.

(Duration of meeting: 3.00 - 4.45 pm)

The Officer who has produced these minutes is Kieran Elliott of Democratic Services, direct line 01225 718504, e-mail kieran.elliott@wiltshire.gov.uk

Press enquiries to Communications, direct line 01225 713114 or email communications@wiltshire.gov.uk

Wiltshire Council
Western Area Planning Committee
12th March 2023

Planning Appeals Received between 06/01/2023 and 31/03/2023

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Appeal Start Date	Overturn at Cttee
20/10440/FUL	Plot D2 Land at Kingdom Avenue, Westbury	Westbury	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.	WAPC	Written Representations	Approve with Conditions	14/03/2023	Yes
ENF/2022/00375	21 Regents Place, Bradford On Avon, BA15 1ED	Bradford On Avon	Garden Shed and Woodstore (Retrospective)	DEL	Written Representations	-	20/03/2023	No
PL/2021/07458	12 Newtown, Trowbridge, Wiltshire, BA14 0BA	Trowbridge	Extension and conversion of shop and accommodation to be used as house of multiple occupation over three floors	DEL	Written Representations	Refuse	13/03/2023	No
PL/2022/05282	21 Regents Place, Bradford On Avon, BA15 1ED	Bradford On Avon	Garden Shed and Woodstore (Retrospective)	DEL	Householder Appeal	Refuse	30/01/2023	No
PL/2022/05649	Thoulstone Farm, Farm Buildings Chapmanslade BA13 4AQ	Chapmanslade	Proposed Demolition Of Existing Agricultural Building And Erection Of Two Residential Dwellings & Garage.	DEL	Written Representations	Refuse	11/01/2023	No
PL/2022/06749	14 Sherwood Avenue (To The West Of Epping Walk), Melksham, SN12 7HJ	Melksham	Proposed detached 2 bedroom bungalow	DEL	Written Representations	Refuse	21/03/2023	No

Planning Appeals Decided between 06/01/2023 and 31/03/2023

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Appeal Decision	Decision Date	Costs Awarded?
20/06919/OUT	Land to the north east of 150 High Street Chapmanslade, Wiltshire, BA13 4AP	Chapmanslade	Outline planning application for 5 no. serviced self-build plots, with all matters reserved except for access	DEL	Written Reps	Refuse	Dismissed	03/03/2023	None
ENF/2021/00811	The Log House, 286 Turleigh Hill, Winsley, Bradford On Avon, BA15 2LR	Winsley	Erection of wooden structure on the far bank of the property	DEL	Written Reps	-	Dismissed	09/01/2023	Wiltshire Council Applied for Costs - APPROVE

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Appeal Decision

Site visit made on 20 December 2022

by Martin Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd March 2023

Appeal Ref: APP/Y3940/W/22/3298668

Land to the north east of 150 High Street, Chapmanslade BA13 4AP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Landstrom Group Ltd against the decision of Wiltshire Council.
 - The application Ref 20/06919/OUT, dated 10 August 2020, was refused by notice dated 3 February 2022.
 - The development proposed is an outline planning application for 5 no. serviced self-build plots, with all matters reserved except for access.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted as an application for outline planning permission, with only the matter of access for consideration at this stage. I have considered the scheme on this basis.

Main Issues

3. The main issues are:
 - Whether the location of the proposal is acceptable, having regard to local planning policy and accessibility to services,
 - The effect of the proposal on the character and appearance of the area, and
 - The effect of the proposal on biodiversity.

Reasons

Acceptability of location

4. Core Policy 1 of the Wiltshire Core Strategy (adopted January 2015) sets out a hierarchy of settlement types, which are Principal Settlements, Market Towns, Local Service Centres & Large and Small Villages. Large villages, of which Chapmanslade is one, are recognised as having a limited range of employment, services and facilities. It is further stated that at such locations, development will be limited to that needed to help meet the housing needs of settlements and to improve employment opportunities, services and facilities.
5. Core Policy 2 establishes how development within Wiltshire will be delivered and establishes that within defined limits there is a presumption in favour of development. Outside of defined limits, development is not permitted, other

than in circumstances endorsed by other policies of the Core Strategy. These are in respect of employment land, military establishments, development related to tourism, rural exception sites, specialist accommodation provision and developments which support rural life. Based on the information before me, the appeal scheme does not fall within any of these exceptions. Core Policy 31 further stipulates that development within the Warminster Community Area should be in accordance with the strategy set out in Core Policy 1.

6. The appellant asserts that the development plan is silent on the matter of self and custom-build housing, and that this is a matter that weighs in favour of the proposal. However, I find that the development plan sets out the strategy for the location of new residential development, in sustainable locations. This would include self and custom-build housing.
7. The appeal site lies outside of the defined limits of development boundary as set out in the Core Strategy. The scheme proposes open market housing, albeit self and custom-build housing. Nonetheless, given its location, the scheme conflicts with Core Policies 1, 2 and 31 of the Core Strategy, which together seek to direct development to appropriate locations.
8. In terms of the accessibility to services, there are few services provided for within the settlement of Chapmanslade itself. The Council identifies that there is a primary school, a public house, a village hall and a small number of localised employment opportunities. The settlement lacks a secondary school, shop, post office, bank, supermarket or any leisure facilities. The appellant does not contest this information.
9. The appellants Transport Statement, submitted with the planning application, sets out the frequency of bus services that serve the location. However, these are far from regular services, indeed the appellant refers to them as "semi-regular" within the appeal statement. They would not, in my view, cater for the day-to-day needs of occupiers of the proposed properties. Furthermore, I note that the bus stops, that could allow access to a greater range of services, are positioned in excess of 1 kilometre from the site, which the appellant accepts is beyond recommended walking distances.
10. I note that the appellant has put forward the construction of two new bus stops to serve the development, as well as other existing dwellings in the area. It is proposed that these bus stops would be secured through a Section 106 legal agreement. However, any such agreement would be required to meet the tests as set out within Regulation 122(2) of the Community Infrastructure Levy Regulations 2010, which states that a planning obligation may only constitute a reason for granting planning permission for a development if the obligation is:
 - (a) necessary to make the development acceptable in planning terms;
 - (b) directly related to the development; and
 - (c) fairly and reasonably related in scale and kind to the development.

These tests are also reflected in paragraph 57 of the National Planning Policy Framework (the Framework).

11. Given the scale of the development that is currently proposed, i.e., 5 dwellings, I am unconvinced that the obligation to provide the bus stops would be fairly and reasonably related in scale and kind to the development. As such, I find

that this provision, even being offered by the appellant, cannot constitute a reason for granting permission. As such, these proposed facilities have not influenced my consideration on this matter.

12. I find therefore that the occupants of the dwellings would likely be reliant on the use of the private car and that there would be a lack of accessibility to services by sustainable means.
13. The appellant points to a large car park at the nearby village hall, which it is alleged would attract many vehicles and traffic movements. However, this is an existing situation, and the village hall undoubtedly serves part of the community that would be able to walk from it within the settlement. As such, this matter does little to convince me of the acceptability of allowing the proposal, where there is a lack of access to facilities by sustainable means.
14. Accordingly, I find that the location of the proposal is not acceptable, having regard to local planning policy and accessibility to services. Thus, it conflicts with Core Policies 1, 2, 31, 60 and 61 of the Core Strategy, which together seek to direct development to appropriate locations, to promote sustainable transport alternatives and reduce the need to travel by private car.
15. Core Policy 62 is referenced in the reason for refusal. However, this policy relates to direct impacts on the highway network. I find that none have been specifically identified and thus do not consider there to be any direct conflict with this policy. This does not however diminish the conflict with policy I find above.

Character and appearance

16. The appeal site comprises an area of undeveloped land located to the north of the A3098 road, which runs east to west through Chapmanslade. The site is enclosed along the road by mature hedging set behind a wide and verdant verge. Nonetheless, there are glimpses through parts of the hedging that is low, as well as small gaps, of the appeal site and woodland beyond. Thus, the site forms an attractive green area outside of the settlement boundary. On the northern side of the road, either side of the appeal site there is limited, sporadic development comprising a small number of dwellings. Moreover, further to the east is a large swathe of green fields, which also serve as an attractive and green setting to the settlement. The site is accessible by the public via the public right of way which crosses the field, linking to wider rights of way in the surrounding area.
17. The majority of residential development forming the defined settlement within the vicinity of the appeal site, comprises a linear arrangement of dwellings on the southern side of the road. This continuous linear layout ceases at the same western extent as the appeal site but stretches eastwards to a more concentrated core of the village towards its easternmost point. As a consequence, a defining feature of the settlement is the consolidated, linear arrangement of dwellings to the south of the road, with only a small number of separated dwellings to the north.
18. The site also lies within The Chapmanslade Greensand Ridge Special Landscape Area (the SLA), with one of the identified characteristics being a "distinct pattern of small sized mainly regular shaped fields enclosed by mostly intact hedgerows with mature trees". The linear pattern of development at the

settlement, as well as the small and irregular pattern of fields in the locality, are also identified as contributors to the area.

19. The appeal scheme, with the matter of access for determination at this stage, shows the creation of a new vehicular access centrally within the frontage to the road. This would puncture the existing boundary hedging, and with radii of 6 metres, as shown on the submitted details, the access would be an obvious and intrusive feature at this location, diminishing the positive contribution provided by the continuous hedging.
20. Additionally, the presence of new dwellings at this location, notwithstanding that they would be setback from the road and that additional landscaping would be incorporated, would appear as an unsympathetic addition to the location. It would significantly depart from the prevailing pattern of development that can be seen in the surrounding area and harmfully intrude into the rural aspect of the countryside at this location. Moreover, it would serve to degrade the field pattern that currently exists, eroding one of the key characteristics of the SLA at this location.
21. The appellant's Landscape Visual Impact Appraisal identifies that from the adjacent road, while the development would result in a perceptible change, it would not affect the overall character of the view. I disagree. From this vantage point, the development would result in a significant change to the character of the view, from a green, rural space to one that contains five dwellings. In light of the positive contribution that this site makes at this location, I find that this would not be an acceptable or desirable change.
22. The presence of dwellings within the site would be particularly conspicuous to users of the rights of way that abut the appeal site. The LVIA further identifies that there would be a Major/moderate impact when viewed from these paths. This only serves to reinforce my view, that the scheme would be a discordant addition at this location that would not be adequately mitigated by additional landscaping.
23. Accordingly, I find that the proposed development would result in a significantly harmful effect on the character and appearance of the area. Thus, the scheme conflicts with Core Policies 51 and 57 of the Core Strategy, insofar as they seek to ensure that development protects and conserves landscape character and relates positively to the existing pattern of development.

Biodiversity

24. The application was accompanied by a Preliminary Ecological Appraisal, which identified that there would be some low scale loss of habitats for bats, but that subject to the integration of mitigation measures within the scheme, there would be no impact on bats and that no license would be required. It was noted however that if the mature horse chestnut to the frontage of the site was to be affected by the works, that further surveys should be conducted.
25. Following this, the appellant undertook an Interim Nocturnal Bat Survey (dated July 2021) and further Nocturnal Bat Survey (dated November 2021). Both of these surveys concluded that subject to the inclusion of mitigation, that the favourable conservation status of local bat populations would be maintained. The Council has not provided any substantive information that would lead me to consider differently.

26. The contentious matter in respect to bats therefore appears to be in respect of the horse chestnut tree. Should there be works to this, or it be removed, further survey works have been recommended. However, the landscape parameters plan as well as Ecological Parameters Plan show that this tree is to be retained during the course of the development. The retention could also be secured through the use of a planning condition, should any permission be granted. As such, I find that sufficient information has been submitted to show there would be no harmful effects on local bat populations.
27. In respect of the hedge to the frontage of the site, the Council raise concern over whether this hedge can be protected. However, the submitted Unilateral Undertaking (UU) from the appellant requires the development to be undertaken in accordance with the Biodiversity Enhancement Management Plan, with a plan attached to the UU showing the retention of this hedge along the frontage of the site. As such, it would be possible to secure the long-term retention of this hedge. It would also therefore be possible to secure any necessary bio-diversity net gain in the same manner.
28. Accordingly, I find that the proposal would not have an adverse effect on biodiversity and thus the scheme accords with Core Policy 50, which seeks to ensure that development protects features of nature conservation importance.

Planning Balance

29. The Framework requires Councils to demonstrate a five year supply of deliverable housing sites. As the Council is currently able to demonstrate 4.72 years supply, paragraph 11(d)(ii) of the Framework is engaged.
30. In terms of the benefits, the scheme would provide five dwellings to overall housing supply and as such, the contribution overall would be limited, against what is a limited shortfall. The scheme would also result in the provision of self and custom-build housing and there is an identified need for this, with the number of people on the self-build register having increased in recent times. This would therefore also be a benefit of the scheme. However, the weight I attach to this is tempered by the fact that I have found that the location of the development would be such that there would be poor access to services. The appellant also accepts that providing self and custom-build housing within the scheme does not mean that it would be acceptable where "unrestricted open market" housing would ordinarily be unacceptable. As such, I accord the collective benefits of the scheme moderate weight.
31. The development plan's housing policies are broadly in line with the aims of the Framework in directing new residential development to locations where there is good access to services and by limiting development in rural areas unless there are special circumstances. I therefore attach moderate weight to the conflict with Core Policies 1, 2 and 31. Core Policies 60 and 61 are wholly consistent with the Framework's aim of supporting a choice of means of travel and I therefore attach full weight to conflict with this policy. Consequently, the inappropriateness of the location of the development carries significant weight. Moreover, there would be harm to the character and appearance of the area, which I find to be significant. The identified harms therefore carry considerable weight.
32. Overall, I find that the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits that would arise when

assessed against the policies in the Framework, taken as a whole. Consequently, the proposal does not benefit from the presumption in favour of sustainable development envisaged by paragraph 11 of the Framework.

Other Matters

33. I agree that the location is not isolated within the context of paragraph 80 of the Framework, that the proposal would add some support to the existing, albeit limited, services within the locality, and that transport solutions vary between urban and rural areas. In my view however, none of these matters are sufficient to outweigh the conflict with policy that I have identified above.
34. During the course of the appeal, the appellant submitted a UU to secure the inclusion of self and custom-build housing, as well as covering biodiversity matters. The Council was given the opportunity to comment on the submitted UU. While the Council raised concern in respect of a number of matters, given that I have found the scheme unacceptable and am dismissing the appeal, it is not necessary that I consider these matters further.
35. The appellant has drawn my attention to a number of appeal decisions which have allowed development proposals for self and custom-build dwellings, as well as addressing matters of accessibility to services. However, from my reading of these decisions, they are materially different from the scheme that is before me, due to variously, a different scale and make up of schemes, some of which have included affordable housing, findings of no or little/limited harm in regard to the effect of a proposal on character and appearance, the presence of facilities within the vicinity of those sites referred to, the size of the nearest settlement, a different use being proposed, and the location of some cases within different planning authorities, with differing local policy contexts. As a result, having regard to the specific circumstances of the case before me, I do not consider these examples to be directly comparable and thus do not convince me of the acceptability of this development.

Conclusion

36. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which indicate a decision other than in accordance with the development plan.
37. For the reasons given above I conclude that the appeal should be dismissed.

Martin Allen

INSPECTOR



Appeal Decision

Site visit made on 3 January 2023

by Simon Hand MA

an Inspector appointed by the Secretary of State

Decision date: 09 January 2023

Appeal Ref: APP/Y3940/C/22/3296526

The Log House, 286 Turleigh Hill, Winsley, Bradford-on-Avon, Wiltshire, BA15 2LR

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Neil Shaylor against an enforcement notice issued by Wiltshire Council.
 - The notice, numbered ENF/2021/00811, was issued on 10 February 2022.
 - The breach of planning control as alleged in the notice is without planning permission, operational development comprising the erection of a raised platform structure shown in the approximate area of the Land annotated with a blue circle on the attached plan entitled "Location Plan".
 - The requirements of the notice are: Demolish in full the raised platform structure and remove all resulting materials from the Land.
 - The period for compliance with the requirement is: 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (f), (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
-

Decision

1. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Applications for costs

2. An application for costs has been made by the Council and is subject to a separate decision.

Preliminary Matters

3. Originally, two appeals were made one by Mr Shaylor and another by Mrs Shaylor. However, subsequently, Mr Shaylor made it clear that he wished for only his appeal to proceed and I have assume the second appeal (3296527) has been withdrawn. This does not affect the outcome of this appeal in any way.

Background to the Appeal

4. No 286 lies on the western side of Turleigh Hill, which lies in a steeply sloping valley. The house and garden lie parallel to the road and at the bottom of the garden, on the uphill slope, at least one large tree has been felled leaving a stump. A raised platform has been constructed on this stump, one end is butted up to the boundary wall with the adjacent house which lies further

uphill, the other end is cantilevered out on large wooden supports over the valley.

The Appeal on Ground (c)

5. This ground is that planning permission is not required. No specific argument has been made on this ground by the appellant that, for example, the platform benefits from specific permitted development rights, or already has planning permission. The Council argue that it is clearly a building as defined in Skerritts¹, and they are correct to do so. They go on to conclude therefore that it requires planning permission. However, for the sake of completeness, I should consider the argument that it could be a building allowed under Class E².
6. The definition of a building includes a structure, and so it could be considered to be a building whose purpose is incidental to the enjoyment of the dwellinghouse. Class E expressly removes the right to build a raised platform at E.1(h). Class I provides an interpretation of a 'raised platform' as one whose height is greater than 0.3m. The height above the garden is several meters, but at the boundary end it sits on the ground. I have seen it argued that this is sufficient to bring such a platform within the ambit of Class E because at 2(2) of the interpretation section of the GPDO it is explained that where the ground level is not uniform measurements should be taken from the highest part. However, even if I were to accept this, the supporting pillars are not part of a 'raised platform' for the purposes of the GPDO, but, in my view, are of such a scale they form a separate engineering operation that requires planning permission in its own right. Consequently, the structure as a whole does not benefit from permitted development rights but requires planning permission.

The Appeal on Ground (a)

7. The site lies within the green belt and the Winsley conservation area. There are very strict rules as to what can be built in the green belt and these are set out at paragraphs 147 onwards of the National Planning Policy Framework (NPPF). These state that "*inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances*". They go on to say that any new building is by definition "*inappropriate*", subject to a small number of exceptions that are not relevant here. Thus, the raised platform is "*inappropriate development*" and should not be allowed unless there are "*very special circumstances*". This may seem harsh, given it is a relatively small structure in a private garden, but that is the effect of the Government's green belt policy, for the intention is to keep the green belt free from buildings and other development.
8. What comprise very special circumstances has been considered on numerous occasions by the courts and suffice to say they have set a high bar. Private use by a householder does not count, nor do arguments that it isn't very big, it doesn't cause any harm, other people have got one etc. Consequently, there are no very special circumstances in this case and planning policy directs that planning permission is not granted.
9. The Council are also concerned about the impact on the conservation area. While the platform is relatively modest, it is clearly visible from the road, where

¹ Skerritts of Nottingham Ltd v Secretary of State (No.2) [2000]

² Class E of the General Permitted Development (England) Order 2015.

it can be seen jutting out over the garden. Normally, I would not consider private garden structures to harm a conservation area when they are seen within the context of the domestic garden but in this case the platform is so high up and eye-catching that it stands out as incongruous and harmful. The NPPF has introduced the concept of two grades of harm to a conservation area, '*substantial harm*' is very serious, but everything else is called '*less than substantial harm*'. Although the harm here is at the lower end of the scale it is nevertheless harmful. There are no public benefits to counterbalance this harm, so this is another reason to refuse planning permission.

10. It follows that the Council's subsidiary argument that there is harm to the wider landscape is also a valid concern, for the same reason.
11. The Council were also concerned about bats. As they pointed out lighting of the platform could be controlled by a condition, but as the appellant wouldn't apply for planning permission their hands were tied. Now, a condition could be used to control lighting, but only in the event that I were to grant planning permission which it is clear from the above arguments that I won't be.
12. In conclusion therefore, the raised platform is inappropriate development in the green belt, causes less than substantial harm to the conservation area, and minor harm to the wider landscape. Taken together these form a weighty reason to refuse planning permission. No arguments have been made that would counterbalance the harm and no conditions would overcome the fundamental problems I have identified. The appeal on ground (a) fails.

The Appeal on Ground (f)

13. This ground is that the requirements are excessive. The requirements are to demolish the platform and remove it from the garden. Given the platform is harmful to the green belt and the conservation area I can think of no lesser actions that would satisfactorily overcome these problems than removal of the platform. The appeal on ground (f) fails.

The Appeal on Ground (g)

14. The appellant argues that the platform helps to support the boundary wall that was weakened when the tree was removed. Given the end of the platform adjacent to the wall is only one plank high, very little support seems to be being provided. I am sure the notice could be complied with without compromising the boundary wall even if the back edge of the platform was left in place to carry out a supporting role. I would not have thought specialist advice was necessary, and there is no suggestion that specialists were involved in the original decision to build the platform. 3 months seems perfectly generous to me. The appeal on ground (g) fails.

Simon Hand

INSPECTOR

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REPORT FOR THE WESTERN AREA PLANNING COMMITTEE

Date of Meeting	12 April 2023
Application Number	PL/2022/05120
Site Address	Land off Ashton Rise, Hilperton, Trowbridge
Proposal	The erection of a five-bedroom detached dwelling with attached double garage and associated private garden with vehicular access off Ashton Rise, including the re-routing of an existing footpath.
Applicant	Mr & Mrs Winstone
Town/ Parish Council	Hilperton Parish Council
Electoral Division	Hilperton, Cllr Ernie Clark
Grid Ref	329401, 182407
Type of Application	Full Planning
Case Officer	Steven Sims

Reason for the application being considered by Committee

This application has been called in for committee consideration by Cllr Ernie Clark should officers be minded to support the application for the proposed development citing the following concerns:

- The scale of development
- The relationship to adjacent properties
- The design, bulk, height and general appearance
- Environmental/highway impact
- The application site is located outside the village Policy Limits/Settlement Boundary and is not allocated in the adopted Hilperton Neighbourhood Plan.
- I also have concerns regarding the proposed positioning of the house on the site, the diversion of the PROW, the use of the PROW for access to the site, the suitability of the Ashton Road and Ashton Rise access, and whether just one house on this large site represents the best utilisation of land when WC is, so we are told, in such a dire need of additional housing and is unable to meet the five-year land supply requirement.

1. Purpose of Report

This report considers the relevant planning considerations for this development proposal, including the consultation responses within the context of local and national planning policy and guidance. The report identifies the various planning constraints and considers whether this represents a sustainable form of development having regard to the social, environmental and economic strands in accordance with the NPPF.

2. Report Summary

The key issues for consideration are:

- The principle of development / Wiltshire's 5-year housing land supply
- Impact on the living conditions of neighbouring residents
- Impact on the character of the area/adjacent Conservation Area/public footpath
- Highway issues
- Ecology issues
- Drainage issues

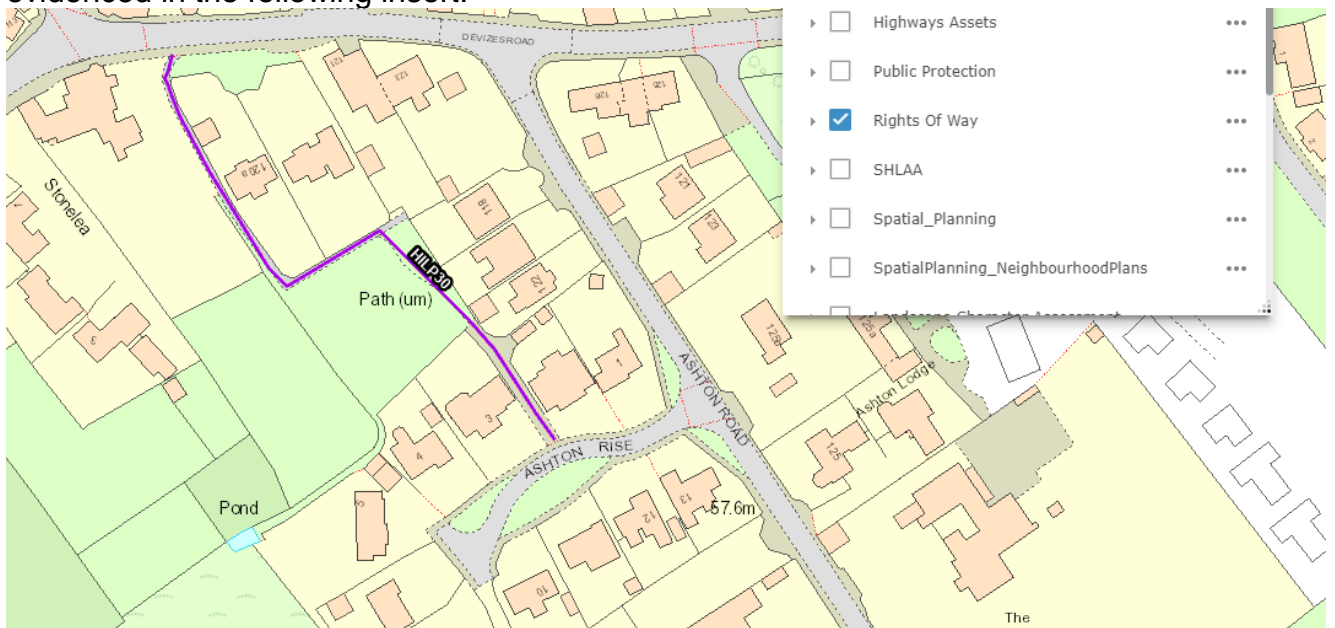
3. Site Description

The application site forms a plot of land measuring approximately 0.15ha located adjacent outside the village limits of Hilperton to the south and west (rear) of residential properties fronting Devises Road and Ashton Road respectively, and to the north of No's 3 and 4 Ashton Rise as shown below.

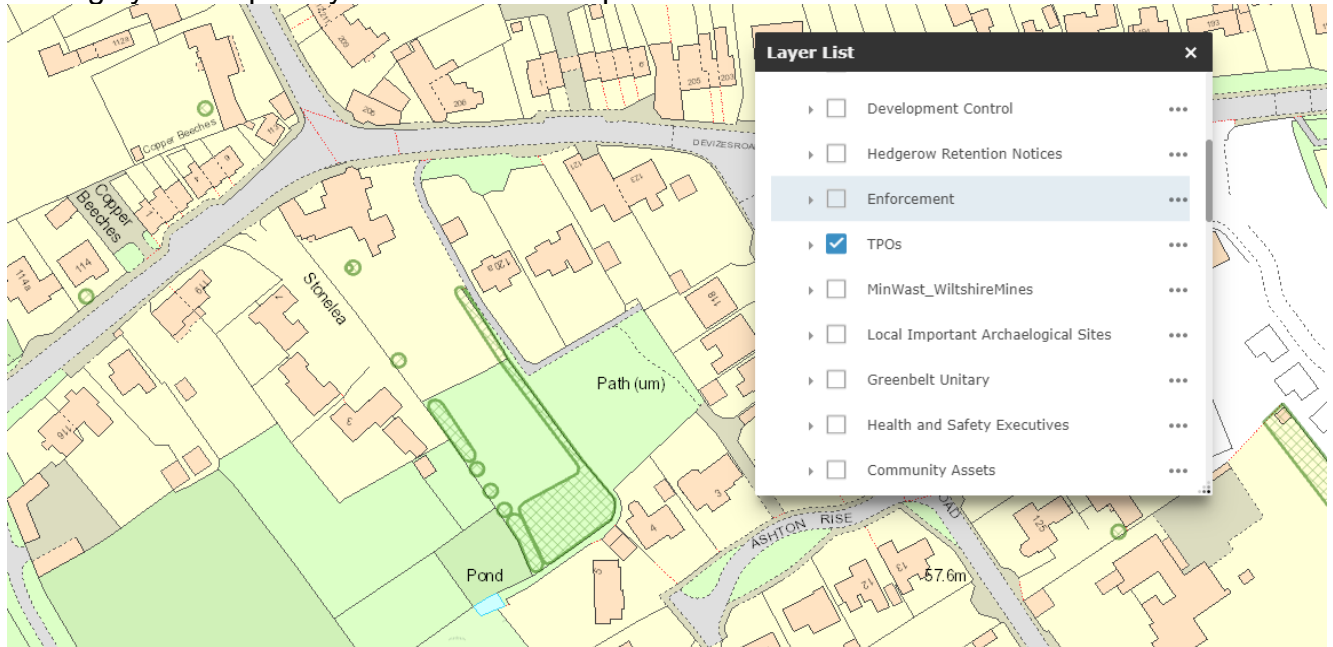


The application site is shown above by the red outline parameters and includes the vehicular means of access via Ashton Rise with the settlement limits identified by the black line. The village conservation area is illustrated by the buff washed over colouring and the listed buildings are identified by the dark orange footing outlines.

HILP30 PRoW footpath dissects the northern part of the site and routes southwards as evidenced in the following insert:



The land to the immediate west (and to the south of the Lion and Fiddle) benefits from planning permission to erect 2 dwellings under application PL/2021/03253 (which was endorsed by the WAPC at the 16 February 2022 meeting). As part of that approved application part of the site the hatched green parcel, including the TPO treed boundary, is safeguarded by a s106 legal agreement and is to be a managed copse along with a flower rich grassland. With that approval, and once implemented, the application site requiring committee determination would be largely enveloped by residential development.



The application site's western boundary, beyond which is the committee endorsed application site for 2 dwellings (under PL/2021/03253).



The application site's northern and eastern boundaries



Photo of application site looking south towards the Ashton Rise properties

4. Relevant Planning History

W/09/00379/FUL – Erection of a single dwelling, including formation of vehicular access – Refused, for the following reasons -

1. Policy H19 of the West Wiltshire District Plan - First Alteration 2004 states that new dwellings in the countryside will not be permitted unless justified in connection with the essential needs of agriculture or forestry. Planning Policy Statement 7 - Sustainable Development in Rural Areas requires exceptional circumstances to allow residential development in the countryside. The proposed dwelling forms a large and visually dominating feature in this open area, which results in the loss of an important transitional site between the open countryside and the village and the Hilperton Conservation Area. It is not felt that the Code 5 nature of the house justifies the departure from development plan policy. The proposal is therefore contrary to government guidance and development plan policy.
2. Policies C17 and C18 of the West Wiltshire District Plan - First Alteration 2004 seek to preserve or enhance the character or appearance of the Conservation Area and its setting. Policy C31A requires new development on sensitive sites to pay particular attention to townscape, existing patterns of movement, the quality of the architecture of the surrounding buildings, and historic layout and spatial characteristic of the area. The proposal by reason of its location, size, form, design, scale, orientation on the plot, lack of landscaping, and loss of an open area, forms visually incongruous proposal which is detrimental to the setting of the Conservation Area and the character of the area. The proposal is, therefore, contrary to development plan policy.

W/90/00574/FUL – One bungalow and six chalet style houses with separate detached garage and new access road – Refused on overdevelopment of the site, harmful to amenities and local residents. The application was also considered premature and undesirable at a time when land was reserved for the Hilperton diversion road.

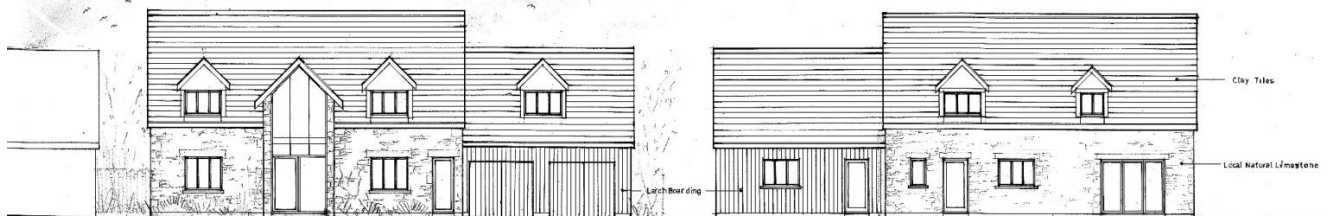
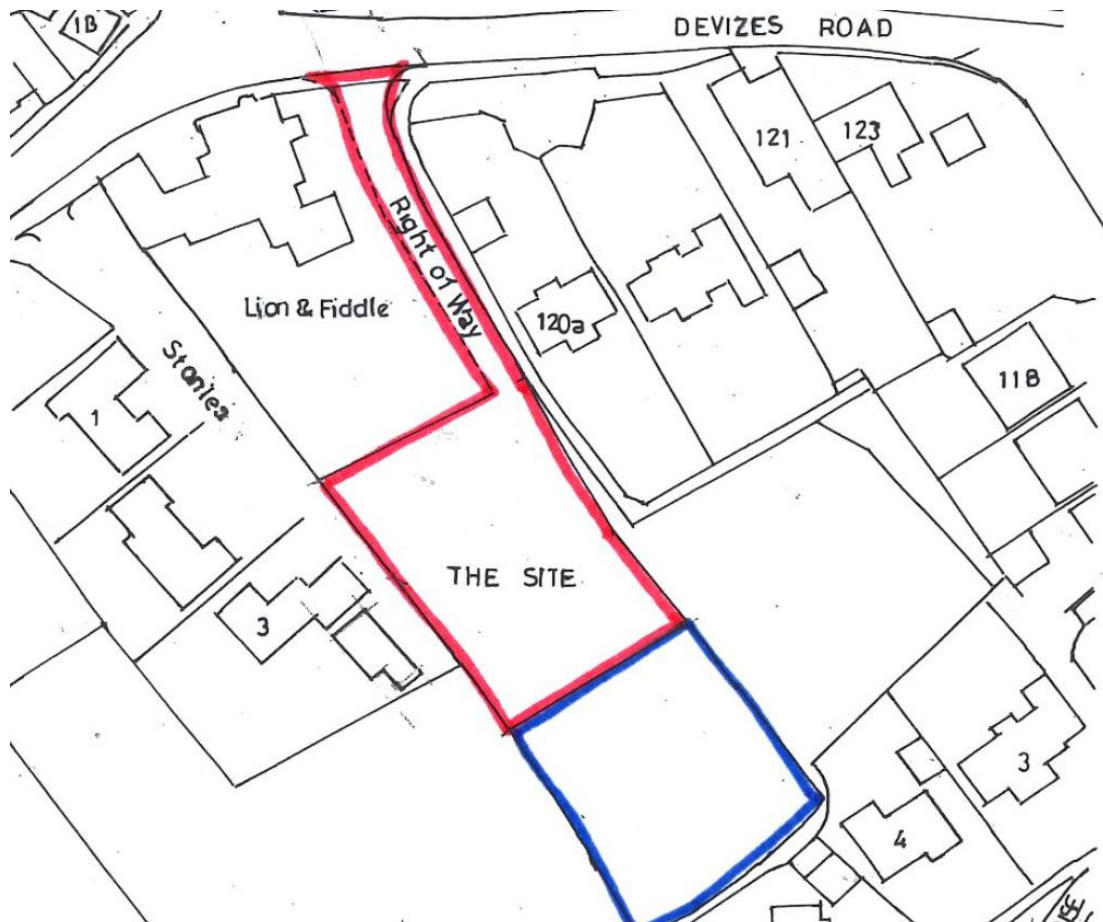
W/89/01794/FUL – Residential development to form 7 new houses, one detached garage and access road – Refused

W/88/00950/OUT – Two detached houses and garages – Refused

W/84/00151/OUT – Residential Development on land adjacent to the Lion and Fiddle pub (including the land that that is subject to the current application) – Approved – which led to the follow up approval and construction of No.120a and 120b Devizes Road under application W/88/00574/REM

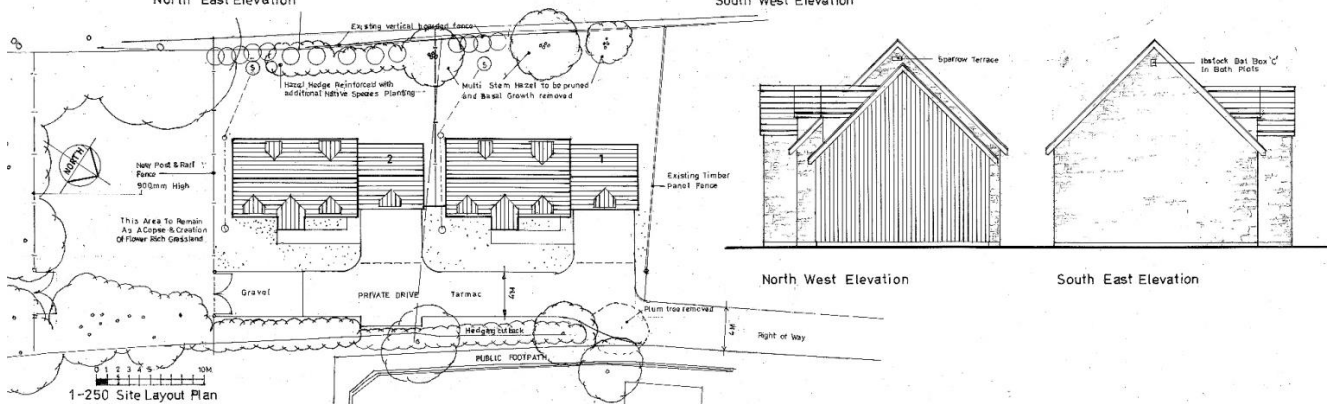
The land to the west also merits referencing in terms of its recent planning history.

PL/2021/03253 - Erection of two detached dwellings, garages and associated works on Land to the south of Lion and Fiddle, Trowbridge Road – Endorsed at WAPC 16/02/2022 and following completion of s106 application was Approved 2/3/2023 to which the following plans refer:



North East Elevation

South West Elevation

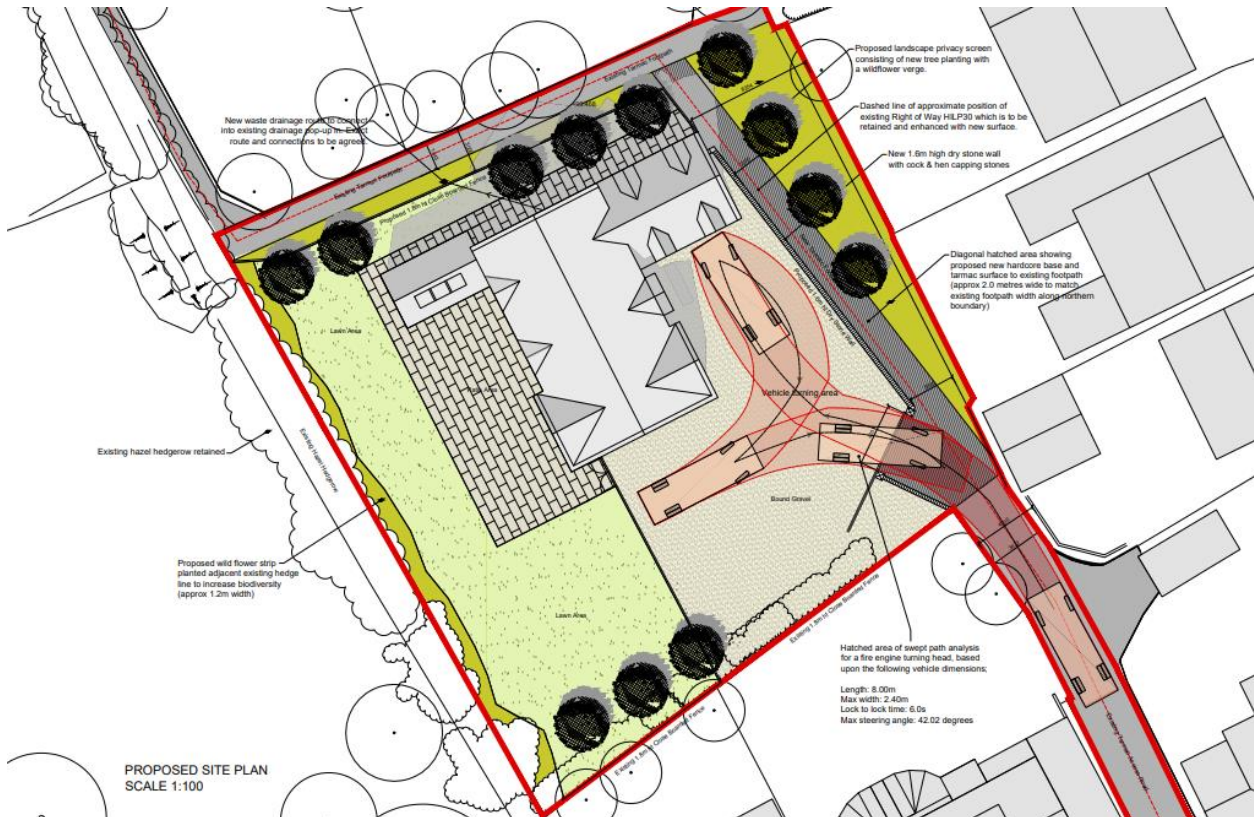


North West Elevation

South East Elevation

5. The Proposal

This is a full application for the erection of one 2 storey detached 5-bedroom dwelling with a double garage. The proposed dwelling would have a kitchen/dining room, lounge, snug, garden room and utility room at the ground floor level and five bedrooms at first floor level. The siting of the dwelling is shown below along with vehicle turning details.



Proposed site plan (drg no.003 rev C)

The proposed external materials would include natural stone walls and stone state tiles for the roof. A 1.8m close boarded fence would border the site to the north adjacent to the public footpath while a 1.6m stone wall would define the site's east parameters and parallel with the public footpath. The routing of the existing public footpath is also illustrated above as it enters the site from the north-west (via the Lion and Fiddle land) and runs eastwards before routing southwards.

The applicant proposes additional tree planting on site which is illustrated on the above inserted site plan. The scheme includes an integral double garage and forecourt with space to park at least 3 additional motor vehicles. Access to the dwelling would be via a driveway extending approximately 43 metres in length via Ashton Rise.



1. NORTH EAST ELEVATION
SCALE 1:50

Proposed east elevation.



4. NORTH WEST ELEVATION
SCALE 1:50

Proposed north elevation.



3. SOUTH WEST ELEVATION
SCALE 1:50

Proposed west elevation.



2. SOUTH EAST ELEVATION
SCALE 1:50

Proposed south elevation.

6. Planning Policy

Wiltshire Core Strategy (WCS) - Relevant policies include: Core Policy 1: Settlement Strategy; Core Policy 2: Delivery Strategy; Core Policy 29: Spatial Strategy – Trowbridge Community Area; Core Policy 41: Sustainable construction and low-carbon energy; Core Policy 50: Biodiversity and Geodiversity; Core Policy 51: Landscape; Core Policy 57: Ensuring high quality design and place shaping; Core Policy 58: Ensuring the Conservation of the Historic Environment; Core Policy 60: Sustainable Transport; Core Policy 61: Transport and Development; Core Policy 67: Flood risk

West Wiltshire District Local Plan (1st Alteration) - U1a Foul Water Disposal

The made Hilperton Neighbourhood Plan 2017-2026 – Policy 2 (Housing) Policy 3 (Heritage and Design; Policy 4 (Sustainable Transport), Policy 5 (Infrastructure and Developer Contributions)

National Planning Policy Framework 2021 (The Framework)

Planning Practice Guidance (PPG)

Wiltshire's Local Transport Plan 2011- 2026

Wiltshire Housing Sites Allocations Plan adopted Feb 2020 (WHSAP)

Housing Land Supply Statement April 2022 (with baseline date of April 2021)

Waste storage and collection: guidance for developers SPD

Hilperton Village Design Statement

7. Summary of Consultation Responses

Hilperton Parish Council: Objects as it is outside Village Policy Limits.

Wiltshire Council Highways Team: No objection

Wiltshire Council Rights of Way (RoW) Team: No objection. The RoW officer confirmed being satisfied with the development and retention of the public footpath on the revised site plan and withdrew the initial objection. Any permission should be subject to the following informatives:

The applicant should note that it is a criminal offence to obstruct a public right of way under section 130 of the highways Act 1980 and therefore no materials, plant, temporary structures or excavations of any kind should be deposited / undertaken which obstruct or adversely affect the public right of way HILP30 whilst development takes place, without prior consultation with, and the further permission of, the highways authority at Wiltshire Council.

If a temporary closure is required during the works this must be applied for 3 months before any work is carried out. The applicant should contact the Countryside Access Officer or email rightsofway@wiltshire.gov.uk.

Wiltshire Council Ecology Team: No objection subject to conditions.

Wiltshire Council Archaeology: There are no archaeological issues that I would wish to raise in this instance.

Arboricultural Officer: No comments.

Dorset and Wiltshire Fire and Rescue: Provided the following advice:

Consideration should be given to ensure access to the site, for the purpose of firefighting, is adequate for the size and nature of the development.

- *Having looked at the available plans, the access width appears to conform to ADB Volume 1 Table 13.1.*
- *As the access road exceeds 20m a turning point or hammerhead, should be provided within the site to meet the requirement of ADB Volume 1 Diagram 13.1.*

Following receipt of the above comments, the applicants submitted a revised site plan detailing a swept path analysis (Drg no.003 rev C) that demonstrates there is sufficient provision within the site for fire and rescue service vehicles to enter and exit in a forward gear.

8. Publicity

The application was publicised by individually posted notification letters sent to neighbouring/properties within close proximity of the site. Following the submission of amended plans, additional public notifications were carried out. As a result of this publicity 15 representations have been received. The representations have been summarised as follows:

- The proposed building is outside the Village Policy Limits
- The access from Ashton Rise is very narrow and is inadequate for emergency vehicles
- The access road is a public right of way
- The fencing of the right of way would create anti-social behaviour and crime
- There is insufficient space for construction vehicles to safely access the site
- Consideration needs to be given to the potential parking of construction vehicles
- Concern raised about damage to existing grass verges
- Waste collection and delivery vehicle access concerns
- The proposed dwelling is too large and bulky
- Concerns about the proposed tree planting
- Significant increase in the density of properties in the area
- Conflict with users of the Public Right of Way which is used regularly by pedestrians
- Loss of vegetation on site/loss of trees on site
- Site has already been cleared
- Accuracy of plans query
- Loss of privacy/overlooking
- Reference made to refused 2009 application W/09/00379/FUL
- Noise disturbance concerns in particular from vehicles using access

9. Assessment

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

Core Policy 1 of the Wilshire Core Strategy explains that there is a general presumption against development outside the defined limits of the Principal Settlements, Market Towns, Local Service Centres and Large Villages. Core Policy 2 sets out the delivery strategy 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. It supports a plan-led approach to development outside of the limits of development of existing settlements, stating that such development will only be permitted in exceptional circumstances, or if the site is identified for development through a site allocation document or a Neighbourhood Plan. The exceptional circumstances are set out in paragraph 4.25 of the Core Strategy.

The application site lies outside and adjacent the settlement boundary of Hilperton - which is defined as a 'Large Village' in policy terms where development of small housing sites (less than 10 dwellings) is considered acceptable. However, the application site is located outside the current limits of development for the settlement and is considered open countryside, although the site backs onto residential development and domestic gardens to the north, east and south, and as cited above, the Council has recently approved a 2-house development on land to the west (on land to the south of the Lion and Fiddle pub). Once that development has been completed (the s106 was completed in early March 2023), the site subject to this committee referral will be almost entirely surrounded by residential properties – which is a material consideration.

The site has not been promoted through either a site allocations plan, and nor is it identified for residential development in the made Hilperton neighbourhood plan. In addition, the proposal does not meet any of the exceptional circumstance as set out within paragraph 4.25 of the WCS.

The made Hilperton Neighbourhood Plan (HNP) includes a housing policy (Policy 2) which supports the construction of new housing *“to meet local market and affordable housing needs”* within the defined settlement boundary of Hilperton and *“exceptionally in the countryside where it satisfies national and strategic policies and delivers:*

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

With reference to the Neighbourhood Plan, the proposal would incorporate several aspects of sustainable design such as the use of a high thermal superstructure, use of photovoltaics to

generate renewable electricity, have low water flow devices installed and smart energy meters, LED lights and electric vehicle charging points.

The Council's Five-Year Housing Land Supply

The Council's published Housing Land Supply Statement dated April 2022 (with baseline date of April 2021) covers the housing land supply for the Wiltshire unitary authority area, and concludes that the Council can 'only' demonstrate a 4.72 years supply of deliverable land for housing, which is considered a modest shortfall.

Paragraph 11 (d) and footnote 8 of the NPPF state that where an LPA cannot demonstrate a 5YHLS of deliverable sites, for applications including housing provision, the policies which are most important for determining the application should be considered out-of-date. As a result, the presumption in favour of sustainable development (often referred to as the 'tilted balance') must be applied and permission should be granted unless protection policies as set out in footnote 7 of the NPPF apply, or the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits.

Decision makers need to reach a reasonable and informed conclusion balancing the need to boost housing supply against any adverse impacts of the proposal, and be mindful of the site circumstances as referenced in the early sections of this report. It is also necessary to determine this application against the development plan and NPPF, and any weigh up all the material considerations. This includes what weight should be afforded to the strategic and restrictive policies within the development plan (which cannot be given full weight).

For this application, the tilted balance flowing from paragraph 11d) ii of the National Planning Policy Framework (The Framework) is engaged. As such the local development plan policies which restrict new housing provision must be treated as being 'out of date', but this does not mean that they carry no weight, since the development plan remains the starting point for all decision making. When the tilted balance is engaged, the NPPF indicates that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole.

When LPA's have a housing supply deficit, paragraph 11 of the NPPF sets a presumption in favour of housing delivery unless protected areas or assets of particular importance would be demonstrably harmed by the development proposal and would provide a robust and clear reason for refusing the application. In this particular case, there are no technical grounds to refuse the application and the Council's highway. PRoW, tree officer, archaeologist and ecologist all report no objections.

WCS strategic policies CP1 and CP2 cannot be given 'full weight' whilst NPPF para 11 is engaged, but these policies can still be given some weight in the planning balance. However as cited above, with the recent issuing of planning permission for 2 additional houses on land to the south of the Lion and Fiddle pub to the west of this application site (requiring committee determination), the site is not considered an unsustainable location for an additional house and

there would be no substantive adverse harm that would demonstrably outweigh the benefit of delivering an additional dwelling to the local housing supply.

The extent of the 5-year housing land supply shortfall and the potential for the proposal to deliver housing in the current 5-year period to help remedy the current shortfall should also be taken into account in the balancing exercise. In this regard, the 4.72 housing supply is considered a modest under provision, and with the absence of any adverse impacts and lack of technical reasons to refuse, the application is supported by officers when tested against NPPF para 11.

Paragraph 14 of the NPPF makes special provision for areas with 'made' Neighbourhood Plans. However, the Hilperton Neighbourhood Plan is more than 2 years old and given the lack of adverse impacts that would demonstrably outweigh the benefit of delivering additional housing, the Hilperton NP does not provide substantive planning policy reason to refuse this application.

9.2 Impacts on the living conditions of neighbouring residents

Core Policy 57 of the Wiltshire Core Strategy requires a high standard of design in all new developments and that development should have regard to the compatibility of adjoining buildings and uses including the consideration of privacy, overshadowing and noise and light pollution. The rear gardens of residential properties fronting Devises Road, Ashton Road and Ashton Rise adjoin the site to the north, east and south as illustrated in the following insert.



Site Context with separation distances (elevation to elevation) to neighbouring residents

The separation distances from the proposed dwelling siting to the associated rear elevations of the adjoining dwellings are detailed in the plan above. The separation distance from the east elevation of the proposed dwelling to the rear elevations of properties fronting Ashton Road, measures at least 20 metres. The proposed gable side elevation includes a first-floor window (that would serve a gym/office/guest bedroom) that could be conditioned to be obscurely glazed. It is also noted that the applicant proposes to plant trees along the site's eastern boundary which would provide additional screening once the trees develop.

The separation distances associated with the northern and southern elevations of the proposed dwelling and the rear elevations of neighbouring properties at Devizes Road and Ashton Rise exceed 21 metres, which is considered sufficient to ensure that neighbouring privacy and amenity would not be substantively harmed.

The proposed development would result in some overlooking of the rear gardens of the properties fronting Devizes Road, Ashton Road and Ashton Rise, the rear gardens of these properties are already overlooked (to the side) by existing properties. The separation distances involved pursuant to this scheme alongside the proposed tree planting (as illustrated below), should ensure that the level of overlooking to neighbouring gardens is within acceptable parameters.



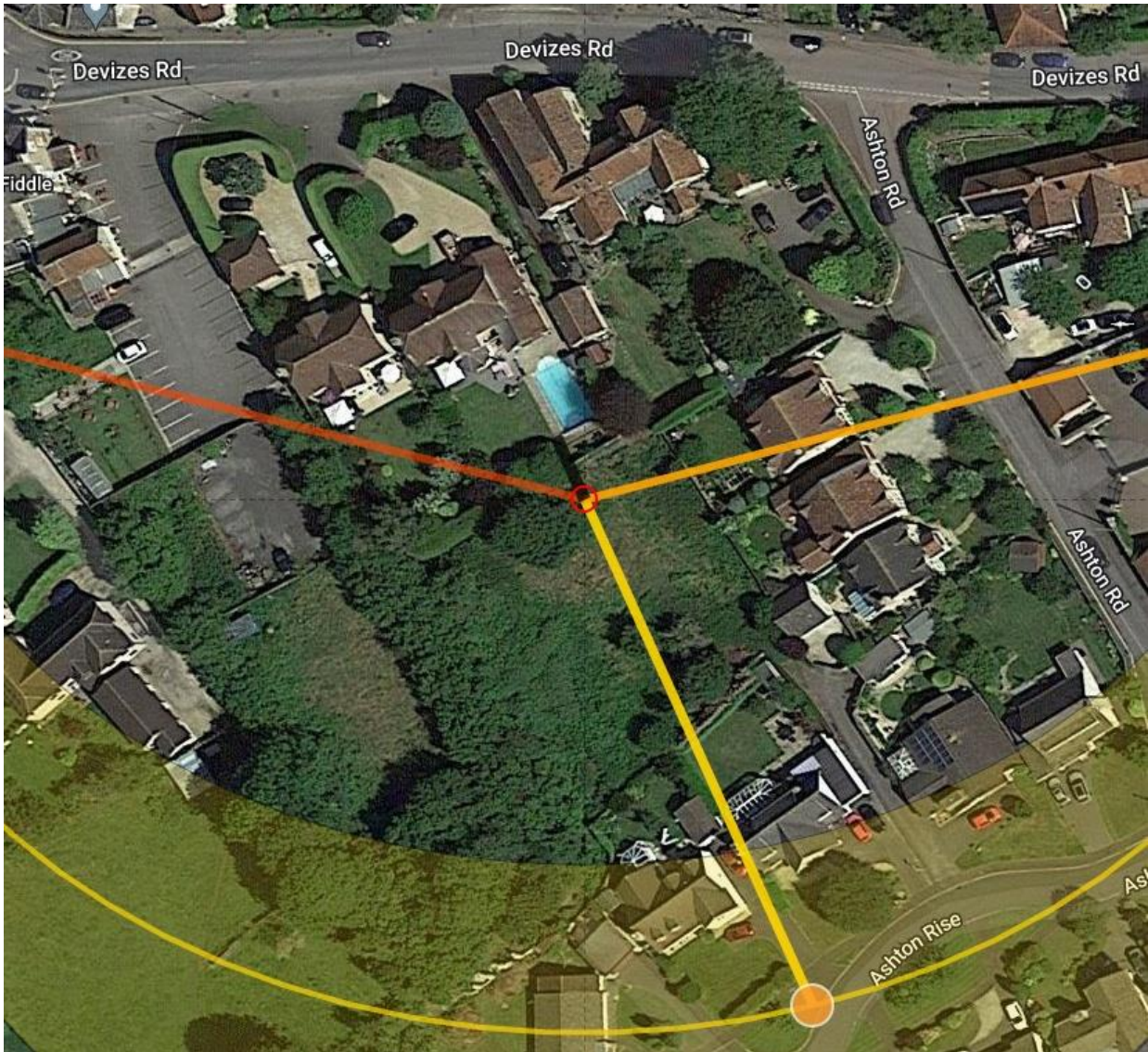
In addition, the existing treed northern and western site boundaries (as shown in the earlier site photographs) would provide additional screening.

Officers are satisfied that subject to securing the additional landscape planting by condition, the proposed development would not result in harmful overlooking or loss of privacy to warrant a refusal of planning permission. In addition, due to the separation distances referenced above, the proposal would not result in harmful levels of overshadowing/ overbearing impacts on neighbouring residents.

The separation distance between the northern elevation of the proposed dwelling and the rear boundary of No. 120 Devizes Road is approximately 7.5 metres. Officers have calculated that there would be some overshadowing to the rear garden of this neighbouring property at certain times of the day when the sun is shining - as detailed in the sun calculation diagram below (which is based on taking the highest point of the dwelling at 9.3 metres (the north facing gable) showing the extent of shadowing (illustrated by the black line) as of noon at the beginning of April and September for example.



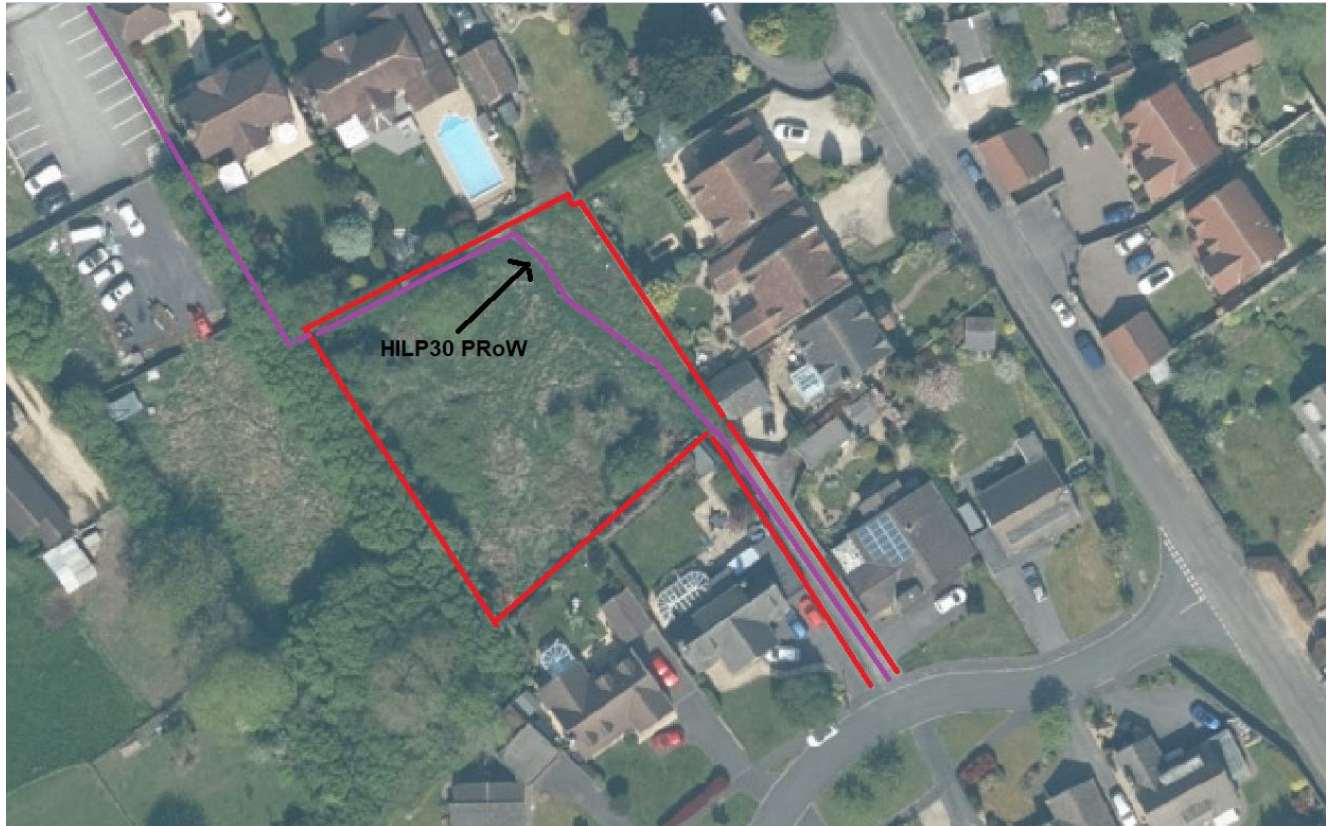
Sun calculation diagram for 1 April noon



Sun calculation diagram for 1 September

It is however necessary to appreciate that with the sun moving on its orbit, the overshadowing effects top neighbouring would be temporary, and through appraising the above example diagrams, the effects are considered acceptable.

The construction of the proposed dwelling on the land behind the Ashton Rise properties would result in an intensification of use of the existing driveway/access, which is shared and used by three properties as shown in the following aerial insert which also includes the PRoW routing of the HILP30 footpath (which would be retained). The proposed additional use of the driveway to serve the dwelling to the rear of Ashton Rise would not have a substantive adverse impact on the living conditions of neighbouring residents in terms of additional noise or light pollution to warrant a refusal. The proposed development is considered to comply with Core Policy 57 of the Wiltshire Core Strategy, and the NPPF.



9.3 Impact on the character of the area/adjacent Conservation Area/public footpath

Core Policy 51 of the Wiltshire Core Strategy states development should protect, conserve and where possible enhance landscape character. Core Policy 57 requires a high standard of design in all new developments and that development respond positively to the existing townscape and landscape in terms of building layout, built form, height, mass, scale, building line, plot size, design, materials and streetscape. Core Policy 58 requires that *'designated heritage assets and their settings will be conserved, and where appropriate enhanced'*

The application site forms a parcel of grassland bordered by existing fencing and hedgerows and trees. Directly to the north and east of the site is the Hilperton Conservation Area. The Ashton Rise properties to the south are also outside the Conservation Area. Residential development in the area is characterised by detached 2 storey dwellings of a variety of design and styles with relatively large rear gardens. As referenced previously, the land to the west of the site has planning permission for 2 dwellings to the south of Lion and Fiddle (approved under application (PL/2021/03253), which will materially change the immediate setting of this application site. The western site boundary is densely landscaped with hedgerow/trees that are subject to a TPO. However spatially, once the land to the west is developed (as approved), the land to the rear of Ashton Rise will become almost completely enclosed by residential development.

Public views of the site from the conservation area from the north and east would not be significantly harmed, and these views would be limited. The proposed design of the proposed

dwelling and use of materials (comprising natural stone and slate tiles) with the additional tree planting and site landscaping are all considered acceptable in this location.

Officers have no concerns about the proposed building materials and have concluded that the dwelling would assimilate well within the site and its surroundings, and would have no adverse impact on the character of the area or substantively harm the setting of the conservation area.

No objections are raised pursuant to the proximity of the proposed development to the PRoW footpath which would be retained and the initial objection raised by the Council's public rights of way team was removed following the submission of revised plans earlier in the year.

9.4 Highways Issues

Core Policy 61 of the Wiltshire Core Strategy requires new development to be served by a safe access to the highway. Paragraph 111 of the NPPF states "*that development should **only** be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe*".

The proposed development would use the existing driveway off Ashton Rise – which serves three properties at present. Sufficient off-road parking and turning provision can be provided to comply with Council's parking standards.

Concern has been raised by third parties with regard to safety issues due to increased use of the driveway/access, and the use of HILP30. However, no objections are raised from the Council's highway team or the Council's public rights of way officers. The access is already used by vehicles serving residential properties and one additional dwelling would not result in an unacceptable impacts to highway safety or result in severe cumulative harm.



Site access off Ashton Rise

9.5 Ecology Issues

Core Policy 50 of the Wiltshire Core Strategy states that development proposals must demonstrate how they protect features of nature conservation, and there is an expectation that such features shall be retained, buffered and managed favourably in order to maintain their ecological value.

The application is accompanied by an Ecological Parameters Plan (EPP) dated January 2023 and Preliminary Ecology Appraisal (PEA) dated May 2022. The site lies within the Impact Risk Zone for Picket and Clanger Woods SSSI, Steeple Ashton SSSI and Iford Manor SSSI, located approximately 4.5km south, 4.6km south-east and 7.3km west of the site, respectively. The site also lies within the Trowbridge Bat Mitigation Strategy Yellow Medium Risk Habitat Zone. The zone relates to the distance from 'Core Roosts' for Bechstein's bats, greater horseshoe bats and lesser horseshoe bats. The application must therefore be considered under the Habitat Regulations because the area is considered to be of importance, or is highly likely to be of importance for bats associated with the Bath and Bradford-on-Avon Bat SAC and in particular in the foraging areas and flightlines of horseshoe bats.

The site adjoins several residential dwellings to the north, east and south. A small parcel of unmanaged grassland is located to the west (at present, although officers are aware that planning permission has recently been granted for 2 additional dwellings to the south of the Lion and Fiddle pub). The existing TPO'd western site boundary extends approximately 30 metres beyond the application site to the north where it borders the public house car park.

There are no buildings on this site, and it has been noted from third party comments and aerial photographs that the site has been cleared of trees. However, given that the site is not located within the conservation area and the on-site trees were not protected by a tree preservation order, the landowner did not require any consent from the Council to remove trees.

The site does not have any suitability for roosting bats. The site offers low-quality foraging habitat for bats except for the mature hedgerow to the west which provides moderate-quality commuting habitat but must be appreciated that the hedge has poor connectivity to the wider area.

In terms of nesting birds, the west boundary hedgerow offers habitat although no active birds' nests were identified during the ecology survey. No evidence of badgers using the site was identified and it has been confirmed that the site has low quality foraging habitat for badgers in any case.

The site offers a small area of low-quality habitat for low numbers of common and widespread species of reptiles and amphibians. However, due to the distance of the site from adjacent ponds and intervening obstacles, it is considered that there is negligible likelihood of great crested newt using the terrestrial habitat on site.

In summary, the site offers low-quality habitat to very low numbers of common and widespread species of reptiles, amphibians and small mammals, mainly along the west boundary

hedgerow. In terms of biodiversity net gain (BNG) the scheme would provide 51% gain through the proposed additional hedgerow and tree planting which would offset the loss of 31% of the existing grassland habitat.

The following mitigation and enhancement measures are proposed in the submitted Ecological Parameters Plan and Preliminary Ecology Appraisal – which are supported.

- Two built-in bat boxes in the new dwelling
- Sensitive lighting scheme, to minimise light spill on vegetation boundaries
- Two built-in or attached swift boxes within the dwelling wall or roof space
- Provision of one bee/insect hotel
- Provision of hedgehog highways in each fencing panel
- Creation of a reptile hibernacula/refuges

These mitigation measures should be secured by condition.

It should be noted that the Council’s ecologist has concluded that the application proposal would not lead to harmful or significant ecological effects and that an Appropriate Assessment has been written and sent to Natural England to verify. With the confirmation that the Council’s ecology team have no objection to this application progressing to s106 drafting stage (should members support the recommendation to approve), there is no reason to delay reporting this application to members of the Western Area Planning Committee. Due regard is however given to the content of the recommendation to defer and delegate to the head of Development Management in recognition that a s106 legal agreement is necessary to secure the associated developer obligations pursuant to this application.



Proposed ecological mitigation and parameters plan

On the basis of the above, the proposed development would have no adverse impact on local ecology and nature conservation and the development complies with national and local policy.

9.6 Drainage Issues

Surface water drainage is proposed to be dealt with by mains sewer. No information has been submitted with regards foul water drainage which can be addressed by planning conditions requiring full details of the surface water and foul water drainage connections.

9.7 Loss of agricultural land

The application site comprises approximately 0.15 hectares of agricultural land which is categorised as grade 2 land. Grade 2 agricultural land is identified as being 'Very Good Quality Agricultural Land'. However, the site has no connectivity to adjacent farmland and the loss of such a small area of land which does not form part of an agricultural holding, would not justify as a reason for refusal.

9.8 Other Issues

Concerns have been raised by third parties with regard to the accuracy of submitted plans however officers have checked the plans and submitted details which are considered accurate and sufficient in detail to illustrate what is being proposed. The application is supported by sufficient evidence and supporting material to enable the Council to reach a decision.

Additional concerns have been raised by third parties with regard to the length of the access driveway and potential issues with waste collection. The Council's Waste storage and collection guidance for developers SPD advises that containers should be stored within 30 metres of the waste collection point. The access driveway that services the site is approximately 43 metres in length and the point of collection would be Ashton Rise. Although this distance marginally exceeds the recommended distance for occupiers to move waste collection bins, the additional 13m beyond what is set as guidance, would not be sufficient grounds for refusing the application.

10. Developer Obligations

The developer is obligated to enter into a s106 legal agreement to secure the delivery of the on-site biodiversity mitigation for the reasons provided by the Council's ecologist and as set out within section 9.5 of this report.

In accordance with the adopted Trowbridge Bat Mitigation Strategy, the developer is also obligated to contribute the sum of £ £777.62 which would go towards funding the Council led Habitat Mitigation Scheme for residual in-combination effects. This sum shall be paid prior to the commencement of development.

Prior to any on-site commencement, the applicant would be required to complete the necessary CIL liability forms and pay the requisite CIL contributions to the council, with 25% of the total sum going to the parish council – which has a made Neighbourhood Plan in place.

11. Conclusion (Planning Balance)

Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

The proposal is located outside the settlement limits of Hilperton, and does not accord with the spatial strategy within the development plan. However, at the time of appraising this application, the Council cannot demonstrate a 5-year housing land supply although it can demonstrate a 4.72-year supply which is considered a modest shortfall.

The deficit, whilst not significant, is nevertheless a material planning consideration. Whilst the Council is taking steps to address the shortfall, NPPF paragraph 11 is engaged, which means that adopted WCS core policies CP1 and CP2 (and CP28) cannot be afforded full weight in the planning balance.

In this case the proposed development would provide one market dwelling, which in housing supply terms, would make a modest contribution towards addressing the housing shortfall, but it would nevertheless make a contribution at a location that would not be materially isolated from the village limits due to the very close proximity of the site from Hilperton village boundary.

In spatial terms, the site is very well connected with the nearby existing residential properties and transport routes – which merits moderate weight in the planning balance.

There would be some short-term benefits afforded to the construction phase of the proposed dwelling through direct and indirect job creation and the future householders of the property would pay council tax. In addition, the development would contribute towards CIL infrastructure funding in the area to go towards supporting or improving existing local infrastructure – which cumulatively, also merits moderate weight in the planning balance.

In terms of neutral impacts, officers are satisfied that the proposed development would not harm neighbouring residential properties or the amenities of the occupiers, and the visual impacts of the proposed dwelling can be adequately mitigated by conditions.

Sufficient off-road parking can be provided and the development would be served by a safe access to the road network.

Subject to conditions it is considered suitable drainage connections can be secured.

The development would result in no adverse impact to local biodiversity, protected species or protected habitats and the adjacent mature hedgerow, that is the subject of a TPO, would not be harmed.

Due to the Council being unable to demonstrate a 5 year housing land supply the tilted balance flowing from paragraph 11d) ii of the Framework is engaged. When the tilted balance is engaged, the NPPF indicates that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole. In this case the development has been assessed against policies of the Council's local plan and the Framework and it is considered the impacts of the development would not significantly and demonstrably outweigh the benefits of allowing an additional dwelling at this location. As such the development is recommended for approval, subject to the following:

RECOMMENDATION: That members agree to defer and delegate to the Head of Development Management to issue the decision to grant planning permission, following a) receipt of written confirmation from Natural England that they are satisfied with the Council's ecology team conclusion that the development would not result in significant or harmful ecological effects; and b) the sealing of a s106 legal agreement covering the matters set out within section 10 of this report; and subject to the following planning conditions:

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

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

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

Location plan scale 1:500 drg no. 001
Site plan scale 1:100 drg no.003 rev C
Proposed ground floor plan scale 1:50 drg no. 004 rev C
Proposed first floor plan scale 1:50 drg no. 005 rev D
Proposed northeast elevation scale 1:50 drg no. 006
Proposed southeast elevation scale 1:50 drg no. 007 rev A
Proposed southwest elevation scale 1:50 drg no. 008
Proposed northwest elevation scale 1:50 drg no. 009

Preliminary Ecological Appraisal (Seasons Ecology, May 2022)
Proposed Landscape Plan drg no. (00) 003 (Urban Fox, January 2023)
Ecological Parameters Plan (Seasons Ecology, January 2023)
Landscape and Ecology Management Plan (Seasons Ecology, January 2023)

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

3. No development above ground floor slab level shall commence on site until the exact details and samples of the materials to be used for the external walls and roofs have been

submitted to and approved in writing by the Local Planning Authority. Development shall thereafter be carried out in accordance with the approved details.

REASON: In order that the development is undertaken in an acceptable manner, in the interests of visual amenity and the character and appearance of the area and adjacent Conservation Area.

4. No development shall commence on site above ground floor slab level until full details of the new fencing and wall in elevation have been submitted to and approved in writing by the Local Planning Authority. Development shall thereafter be carried out in accordance with the approved details.

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

5. All the additional planting as set out within the approved landscape plans shall be carried out in the first planting and seeding season following the first occupation of the building 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, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

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

6. No development shall commence on site until details of protective fencing for the protection of the mature hedgerow subject to a TPO located adjacent the western boundary of the site has been submitted to and approved in writing by the Local Planning Authority. The protective fencing shall be erected in accordance with the approved details. The protective fencing shall remain in place for the entire development phase and until all equipment, machinery and surplus materials have been removed from the site.

REASON: In order that the development is undertaken in an acceptable manner and to enable the Local Planning Authority to ensure the protection of the mature hedgerow subject to a TPO.

7. No development hereby approved shall commence above ground floor slab level until a detailed scheme for the discharge of foul water from the site, has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be first occupied until foul water drainage has been constructed in accordance with the approved scheme.

REASON: In order that the development is undertaken in an acceptable manner and to ensure that the development can be adequately drained.

8. No development hereby approved shall commence above ground floor slab level until a detailed scheme for the discharge of surface water from the site (including surface water from the access / driveway), incorporating sustainable drainage details together with permeability test results to BRE365 and including all necessary permits, consents and permissions, has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be first occupied until surface water drainage has been constructed in accordance with the approved scheme.

REASON: In order that the development is undertaken in an acceptable manner and 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 on-site biodiversity mitigation and compensation as set out in the Preliminary Ecology Appraisal by Seasons Ecology dated May 2022 and in accordance with the Ecological Parameters Plan by Seasons Ecology dated January 2023.

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. Before the dwellinghouse hereby approved is first occupied, the first-floor window that serves the gym/office/guest bedroom on the eastern side elevation shall be glazed with obscure glass only [to an obscurity level of no less than level 4] and the windows shall be maintained with obscure glazing in perpetuity.

REASON: In the interests of residential amenity and privacy.

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. 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.

12. No part of the development hereby permitted shall be first occupied until the turning area and parking spaces for the proposed dwelling have been provided and completed in

accordance with the details shown on the approved plans. The areas shall always be maintained for those purposes thereafter.

REASON: In the interests of highway safety.

13. Prior to the commencement of works, including demolition, ground works/ excavation, site clearance, vegetation clearance and boundary treatment works, a Construction Environmental Management Plan (CEMP) shall be submitted to the local planning authority for approval in writing. The Plan shall provide details of the avoidance, mitigation and protective measures to be implemented before and during the construction phase, including but not necessarily limited to, the following:

- a) Identification of ecological protection areas/buffer zones and tree root protection areas and details of physical means of protection, e.g. exclusion fencing.
- b) Working method statements for protected/priority species, such as nesting birds and reptiles.
- c) Mitigation strategies already agreed with the local planning authority prior to determination, such as for great crested newts, dormice or bats; this should comprise the pre-construction/construction related elements of strategies only.
- d) Work schedules for activities with specific timing requirements in order to avoid/reduce potential harm to ecological receptors; including details of when a licensed ecologist and/or ecological clerk of works (ECoW) shall be present on site.
- e) Key personnel, responsibilities and contact details (including Site Manager and ecologist/ECoW).
- f) Timeframe for provision of compliance report to the local planning authority; to be completed by the ecologist/ECoW and to include photographic evidence.

Development shall be carried out in strict accordance with the approved CEMP

REASON: To ensure adequate protection and mitigation for ecological receptors prior to and during construction, and that works are undertaken in line with current best practice and industry standards and are supervised by a suitably licensed and competent professional ecological consultant where applicable.

Informatives to Applicant:

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

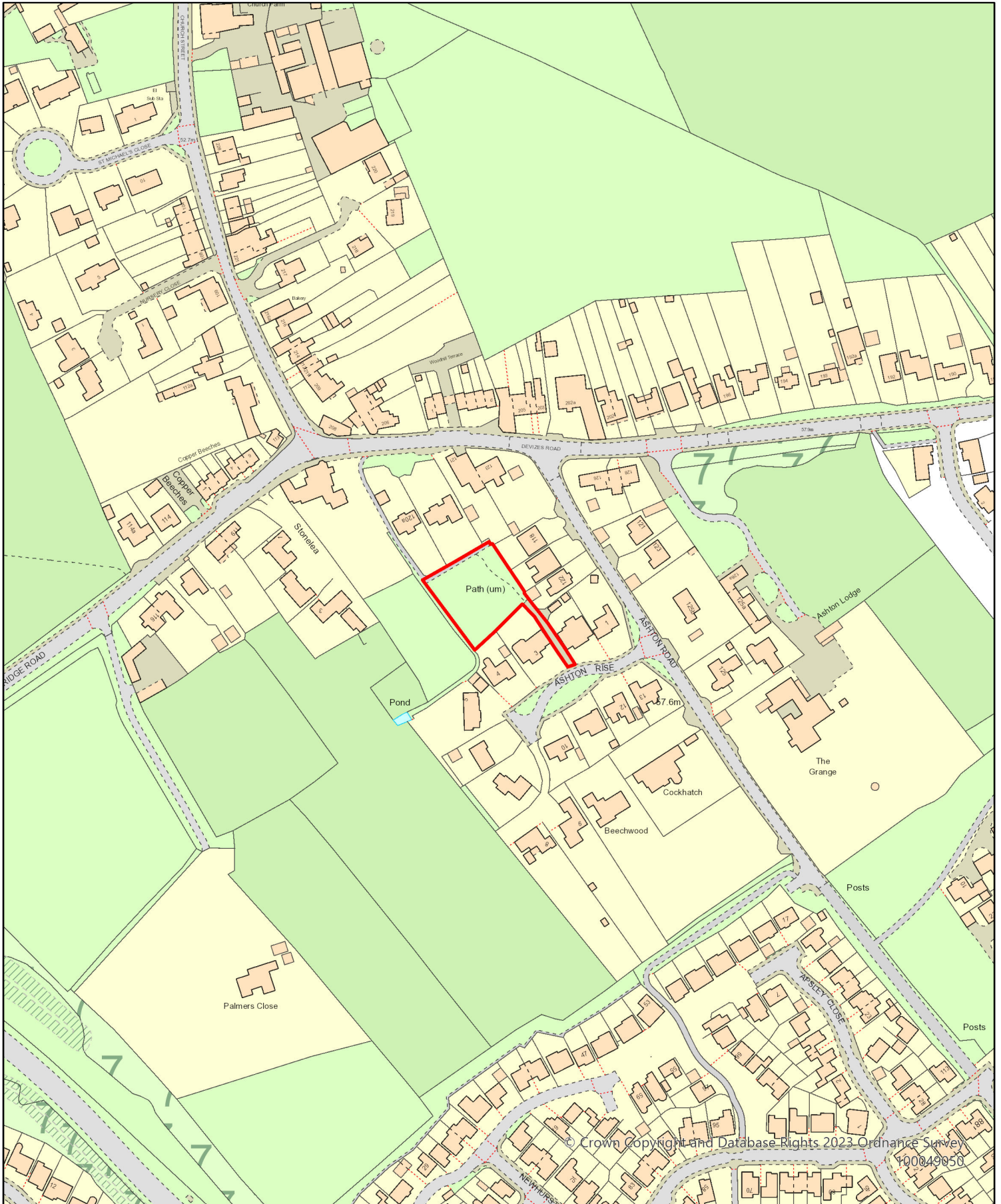
apply and full payment will be required in full and with immediate effect. Should you require further information or to download the CIL forms please refer to the Council's Website:
www.wiltshire.gov.uk/planninganddevelopment/planningpolicy/communityinfrastructurelevy

Dorset & Wiltshire Fire and Rescue Service advise the following - A core objective of the Dorset & Wiltshire Fire and Rescue Service is to support and encourage an increase in the provision of residential sprinklers in domestic properties. Residential sprinklers are not new and, although a British invention, significant developments have been made in the United States, Australia and New Zealand. In these countries there are whole communities with such installations and a zero fatality rate from domestic fires where a sprinkler system is installed. The following information may be of interest to you:

- Sprinklers work from a standard main, although a 32mm connection is required
- Are inexpensive to install, particularly in a new building
- Do not activate by accident causing unwanted damage
- Only operate through individually activated heads, not the whole system
- Are not unsightly as they fit flush to the ceiling behind a flat cover
- Cause less water damage in a fire than normal fire fighting operations
- Significantly reduce fire and smoke damage
- If you would like more information on these systems please contact this Authority.

The applicant should note that it is a criminal offence to obstruct a public right of way under section 130 of the highways Act 1980 and therefore no materials, plant, temporary structures or excavations of any kind should be deposited / undertaken which obstruct or adversely affect the public right of way HILP30 whilst development takes place, without prior consultation with, and the further permission of, the highways authority at Wiltshire council.

If a temporary closure is required during the works this must be applied for 3 months before any work is carried out. The applicant should contact the Countryside Access Officer or email rightsofway@wiltshire.gov.uk.



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REPORT FOR THE WESTERN AREA PLANNING COMMITTEE

Date of Meeting	12 April 2023
Application Reference	PL/2022/08930
Site Address	Bekson Farm, 54 Whaddon Lane, Hilperton, Trowbridge, Wilts, BA14 7RN
Proposal	Revised submission for the retrospective permanent siting of a Biomass boiler with a 6m high flue and container for the control unit (Resubmission of PL/2021/10373)
Applicant	Mr & Mrs J. Holloway
Town / Parish Council	Hilperton Parish Council
Electoral Division	Hilperton – Cllr Ernie Clark
Grid Ref	387564 - 160077
Type of Application	Minerals and Waste Application
Case Officer	David Cox

Reason for the application being considered by Committee

This application has been called into Committee at the request of Cllr Ernie Clark should officers be minded to support the application to enable the elected members to consider the following matters:

- The environmental and highway impacts

1. Purpose of Report

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

2. Report Summary

The key determining planning issues are considered to be: The Principle of Development, Environmental Impacts (air quality) and Neighbouring Impacts, Highway Impacts and Biodiversity Effects.

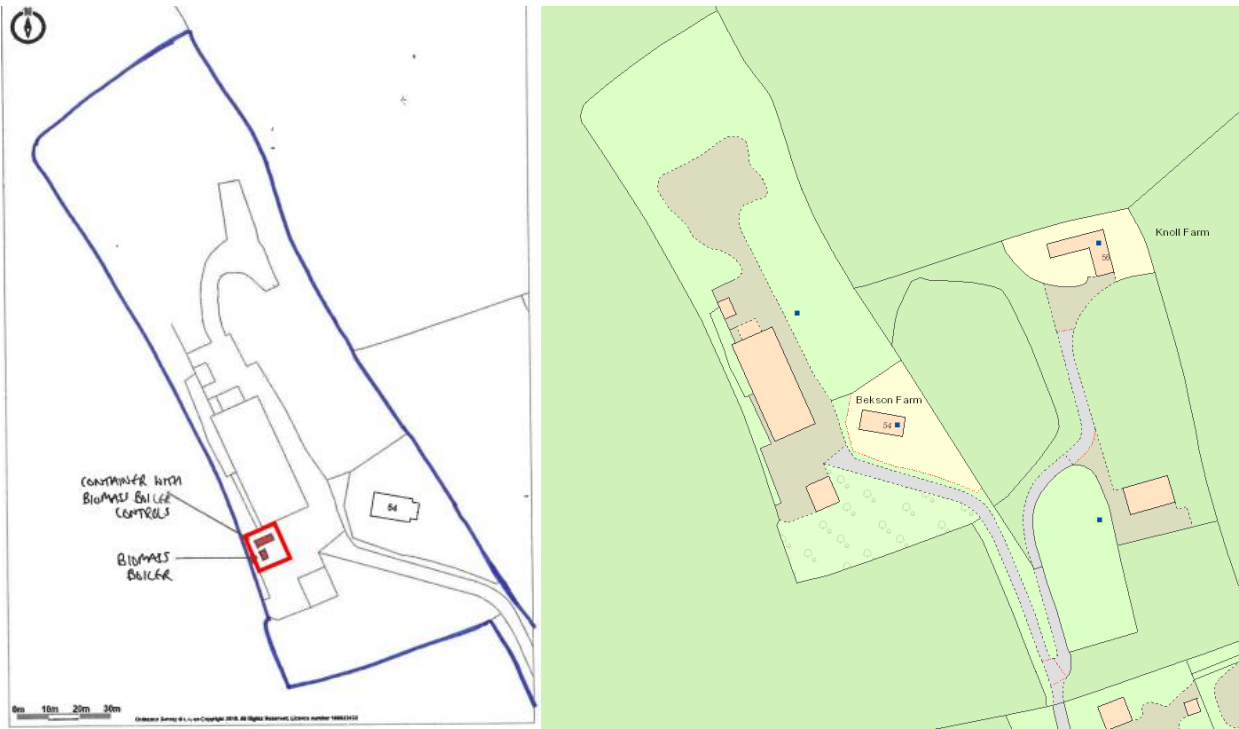
3. Site Description

Bekson Farm is located along Whaddon Lane, to the east of Hilperton and is approximately 420m outside the limits of development (of the large village as defined in the Wiltshire Core Strategy). As Whaddon Lane passes the Village Hall and nursery on the right, the road narrows to near single lane width as you pass New Barn Farm on the left. From New Barn Farm it is approximately 400m to the application site where there are two informal passing points near to an agricultural field access and the access to a stable block known as '*Land West of Merryfield*'.

The access into the application site from Whaddon Lane is defined by a fairly large concrete apron that also provides access No 50 Merryfield. There is then an approximate 100m long private road which then splits to Bekson Farm on the left and Knoll Farm to the right.

Bekson Farm includes a residential bungalow (which has an agricultural tie) and two barns. The first larger barn (to the north of the boiler) used to be a piggery first approved under applications W/76/99848/HIS and W/77/00333/HIS. The second barn (located to the south of the boiler) was approved under application 14/09400/FUL.

The small agricultural field to the east and north of the larger barn is understood to be used to grow hay. It is understood that the applicant runs a forestry and agriculturally linked businesses from the Bekson Farm site – with the application site and wider landholding shown below.



Site Location plan and Council mapping image of Bekson Farm and Knoll Farm



Council mapping image of the application site showing wider context in relation to Hilperton



Google Street view image of the access to the application site from Whaddon Lane

There is only one residential property within the immediate vicinity of the application site, at Knoll Farm, where the boundary is approximately 50 metres away from the boiler, but its residential curtilage (shown in yellow on the previous page) is considered to be approximately 110 metres away. There are also a further three dwellings approximately 190 metres (and beyond) to the south east of Bekson Farm.

On previous site visits, the case officer viewed the smaller modern barn and confirmed that it is used for agricultural storage (which included tractor storage).

4. Planning History

In the applicants supporting statement it is asserted that the boiler has been on site since c2016 without any planning enforcement or environmental health complaint being made to Wiltshire Council.

The boiler, with a 4m high flue, was given a temporary two-year planning permission on 10 February 2020 under application 19/06300/WCM – which was an application that sought permission for a *change of use to allow a waste recovery operation and siting of a biomass boiler and container for the control unit*.

Application 19/06300/WCM was granted subject to 5 planning conditions (and it should be noted that the decision notice and a copy of the delegated report have been appended at the end of this report).

Condition 1 set out the terms of the temporary permission and read:

1. The Boiler and its flue, the boiler control container and all connecting apparatus hereby permitted shall be removed, and the use (the production of wood chip) hereby permitted shall be discontinued, and the land restored to its former condition (hardstanding) on or before 10 February 2022 in accordance with a scheme of work submitted to and approved in writing by the Local Planning Authority.

REASON: In the interests of residential amenity, in order to secure the restoration of the land upon removal of the boiler and use for which permission can be justified only on the basis of a special temporary need

Condition 2 was the approved plans list.

Condition 3 required a boiler management plan (which was discharged on 22 November 2021).

Condition 4 limited the use and operation of the boiler between 6am and 6pm Monday to Friday (with no operation on Saturdays, Sundays or Bank Holidays).

Condition 5 limited the applicants to only being able to dry two container loads of wood chip on the site each week.

Conditions 1, 3, 4 and 5 were all added to protect residential amenity of the surrounding neighbouring buildings and to limit the potential amount of vehicle journeys to the site.

The decision notice for 19/06300/WCM also included two planning informatives to further explain the reason for the temporary permission and to establish best practice operations of the boiler at Bekson Farm to minimise the impacts on neighbouring amenity. These informatives read as follows:

“The applicant is respectfully advised to continue to consider increasing the height of the flue and/or to move the boiler to the other side of the former piggeries barn. Should an Environmental Health complaint be received, and is upheld within the next two years, further planning permission would be likely to be very difficult to obtain once this temporary permission expires. In any such circumstances significant alterations and/or further evidence will be required to satisfy that the boiler can operate without causing potential harm to neighbouring amenity.

The applicant is respectfully advised to consider finding a storage solution, to be able to store all wooden pallets and logs for combustion in the boiler, under cover, as the moisture content of the pallets will affect the rate that they burn and how much smoke and fumes they produce. This may require securing planning permission for a further structure on site.”

Three months before the temporary permission expired, the applicants sought permanent permission under application PL/2021/10373, which was reported to the West Area Planning Committee on 6 July 2022, and was refused for the following reason;

“The Council is not satisfied that this proposal would be an acceptable permanent facility in such relative close proximity to residential properties. The Council argues that by reason of the smoke produced by the boiler fails to protect nearby residential amenities, contrary to adopted Wiltshire Core Strategy Core Policy 57 vii.”

Within the published minutes for the 6 July 2022 committee meeting the following note was included:

“Note – During the debate the Committee intimated that the applicant should be encouraged to submit a separate application for a taller flue to ensure the boiler accords with the enhanced smoke dispersal as outlined in the supporting surveys).”

The minutes further contained the following.

“During the debate, Cllr Vigar commented on concerns about smoke and odour radiating from the boiler when it was in operation and the frequency of out of, operational hours visits by Environmental Health officers. He suggested that the length of the flue could be extended to reduce the impact of smoke and odour on neighbouring properties. Cllr Wickham observed that wind direction was not a constant and indeed was liable to change.”

5. The Proposal

The proposed boiler is a Glen Farrow 295kw commercial biomass boiler which uses wood or straw. The heat from the boiler is used to dry woodchip in a separate container that is created from the applicant's forestry work.

The boiler comprises of a blue metal 'box', and following the 6 July 2022 Committee decision, the 4m high flue has been increased to 6m (and was installed around November 2022). This application was originally received on 17 November 2022 but due to a registration delay, it was not validated until 11 February 2023. As shown in the photo below, the boiler is connected to a rectangular blue container unit which houses the control unit – which turns the boiler on and off and sets the combustion and efficiency rate of the boiler.



Photo taken on site of the boiler (and control room) and drying containers with two existing agricultural buildings either side – with 4m high flue (summer of 2022)



Photo taken on site of the boiler with the recently installed 6m high flue (and control room) and drying containers with the former piggery on the right

The boiler is powered by burning wooden pallets which are sourced from a local factory (the Consortium Education – approximately 1 and half miles away) and the material is collected by the applicant. The only pallets that are accepted for the boiler are unpainted and non-treated pallets. The pallets are mostly stored outside without any cover. The heat generated from the boiler is used to dry wood chip which is dried in a further open top container located immediately next to the boiler, connected by pipework. The wood chip is sourced from associated businesses (e.g., tree surgeon and forestry work undertaken by the applicant) where waste timber is brought to the site, chipped and then added to the container for drying. The dried woodchip is then sold on for biomass boilers to use.

The pallets are stated to only be used to run the boiler and are not to be turned into wood chip. The applicants also state that they try to not run the boiler when there is a south westerly wind.

The applicant is no longer seeking to extend working use of the boiler into the weekend and is satisfied with the proposed conditions limiting the use of the boiler to 0600-1800 Monday to Fridays.

Under the temporary approved arrangements, the applicant was able to dry up to 2 containers of woodchip each week although it was often the case that 1 to 1.5 containers a week were produced. The applicant has argued that each container load requires 30 hours each to dry, and it should be noted that the controlled hours of operation of 6am-6pm Monday to Friday (a total of 60 hours) was specifically intended to give the applicants sufficient time to dry up to two container loads per week, whilst allowing any affected neighbour sufficient respite from dispersed smoke or fumes in the evening and over the whole weekend and any bank holiday.

For this application which seeks permanent permission, the applicants have submitted the following supportive documents:

- A supporting statement
- The Glen Farrow GF295 Boiler manufacturing details
- An Air Quality Report by Air Quality Consultants dated December 2019
- A Biofuel analysis report
- A Boiler service record
- A further updated Boiler Management Plan
- RHI Certificate and Emissions Certificates

For the avoidance of any doubt, in relation to the RHI (renewable heat incentive) certificates, the applicant has produced certificates that refer to different boiler models than the GF295. It is not considered that this is a planning or environmental health matter since the RHI scheme is primary run by Ofgen and allows boiler owners to make certain claims. As far as this application is concerned, the boiler is the GF295 model which can burn wood or straw and the application is supported by an Air Quality report (which specifically states that they have modelled the GF295 boiler), which was the same boiler that was duly referenced as part of the 19/06300/WCM application. The anomaly with the RHI certificates would be a matter for Ofgen and should not be a material planning consideration that influences the determination of this application.

6. Planning Policy

National Context:

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

Local Context:

The Wiltshire Core Strategy (adopted Jan 2015): CP1 – Settlement Strategy; CP2 – Delivery Strategy; CP29 – Spatial Strategy Trowbridge; CP42 - Standalone Renewable Energy Installations; CP51 - Landscape; CP55 Air Quality; CP57 – Ensuring High Quality Design and Place Shaping; CP60 – Sustainable Transport; CP61 – Transport and New Development; CP64 – Demand Management.

Hilperton's made Neighbourhood Plan – paragraph 4.15 Air Quality and environmental pollution

Wiltshire and Swindon Waste Core Strategy 2006-2026 - Policy WCS3

- Air Quality Strategy for Wiltshire 2019-2024

Further Policy background on Air Quality;

Air Quality

The Local Air Quality Management (LAQM) regime requires local authorities to assess air quality within their areas and declare an Air Quality Management Area where UK Air Quality objectives are or are likely to be exceeded. In Wiltshire, air quality is very good over the vast majority of the County. 8 Hotspots have been identified and Air Quality Management Areas declared as a result of exceedances of the annual mean for nitrogen dioxide. The source of this pollution within the 8 hotspots, is from road transport.

Odour

The Odour assessment is noted. It is based upon assumptions that the appliance is operated efficiently. The Public Protection Officers make recommendations below in relation to the management of the appliance.

Legislative Controls

The Clean Air Act 1993 controls emissions of dark and black (not white) smoke emissions from commercial chimneys as determined using a Ringlemann chart and BS2742:1969. There are however exemptions in the legislation and defences relating to start up processes and unforeseen malfunctions. The Environmental Protection Act 1990 contains provisions relating to smoke odour and similar nuisances; and where a Statutory Nuisance is found to exist, an abatement notice can be served – which is separate to the planning regime. This Act also contains a statutory defence termed “best practicable means” which affords users/businesses a reasonable defence themselves against such a charge where they can evidence that they are taking all reasonable precautions possible to prevent a nuisance.

7. Consultations

Hilperton Parish Council – Strongly objects and asks for previous comments to be repeated;

“We are unable to ascertain what is being burned and in what quantities and whether or not the boiler is certified to burn wood. If it is, there should be measures in place to ensure the applicant is using wood that is not treated in any way. We would like to know what pollutants, if any, are being emitted and would question, in any case, the suitability of the site for an industrial – not agricultural – biomass boiler so close as to have an impact on neighbouring properties and farmland, and also very near to the pre-school and the village hall. The considerable numbers of vans driving to and from the site each week, using the very narrow, single-track lane, is already having an impact on other road users, including local residents, cyclists, walkers and horse riders”.

Wiltshire Council Environmental Health Officer – No objection subject to conditions:

Comments received 21 and 27 March 2023 from Pete Nobes;

"I visited on 14 December, the boiler was lit and the smoke was rising nicely. Nothing but old bits of tree / pallets out to be burnt. No plastics, no painted wood etc."

"The boiler management plan was revised to incorporate the best practice and the guidance in the Process Guidance Note."

For application PL/2021/10373 the consultation response stated;

"I have considered the application at length, assessed the objections raised, consulted with DEFRA and the Environment Agency and visited the site several times.

Firstly, to confirm that the process does not currently require an Environmental Permit; neither an Environmental Permitting Regulations Section 5.5 Part A process for the production of fuel from waste (issued by the Environment Agency) nor a Part B Environmental Permit. These are issued by this authority, and I have considered both a potential for an Incineration of Waste Process at the site and also one for Processing of Wood, but the boiler capacity is below the threshold to require the former and the volume of wood processed is currently below the threshold for the latter. We have agreed to continue to monitor this with the applicants who are aware of the requirement for a Permit should the threshold be exceeded. The Environment Agency have also confirmed that the process does not need to be registered as a waste management operation.

Although there is local resistance to the process in operation here, we have not received any substantiated complaints in respect of the operation of the boiler despite it having been in operation for 5 years now. Temporary permission was granted partially to allow us to monitor its performance and there would not seem to be a significant risk to local amenity as a consequence of its operation. The restricted hours of operation would seem to help with this, and I would support their retention in any full planning permission granted (including no burning at weekends or on bank holidays).

Nevertheless, I do feel that a degree of control is required to stop the potential for any inefficient use of the boiler; for example, incineration of treated wood or plastics and also to ensure that all wood burnt is suitably dry in order to minimise emissions. These are issues that could have been covered by an Environmental Permit, however, as explained one is not currently needed. Therefore, I request that the 'Management Plan' which has been agreed by Environmental Health Officers is conditioned so that the operation of the boiler is in full accordance with those approved details.

I would also ask to add an informative that the boiler should not be operated if the wind is likely to take the smoke in the direction of the nearest receptor who I estimate to be 120m to the NE. The applicant should also be reminded that compliance with any boiler management plan conditions would not preclude this office taking formal action should a statutory nuisance ever be proven following receipt of complaint."

The above consultation response has been edited to take into account a complaint investigated by the public protection team which concluded that insufficient sufficient had been provided to pinpoint the source of the smoke.

Follow up Environmental Health consultation comments following receipt of the letter of representation from AVAL:

"I've considered the Aval report submitted as a representation to the above application. It is not however signed so we cannot check the qualifications of the author to corroborate their Air Quality Modelling experience.

The applicant's Air Quality Consultants Air Quality Assessment uses 'state of the art' modelling and concludes that under optimal conditions, the odour impact at the nearest receptors would be negligible. They

have also modelled a less than ideal scenario with sub-optimal conditions and the impact at the nearest receptor would be slightly adverse. I note the cited professional experience of the author, Dr Evans, in respect of odour assessments and the use of ADMS 5 modelling and of Dr Beattie who has approved the document.

Our aim would be to ensure that the boiler operates at optimal conditions at all times. We have secured a revised Boiler Management Plan (BMP) to ensure this is the case. We could then condition that the plan be adhered to at all times. To be sure that this is the case, I would propose to undertake ad-hoc visits and to alert the Planning Enforcement team with my evidence if I considered that there was any evidence of non-compliance.

For reference, the revised BMP would ensure a number of key conditions are met to include that no treated wood or plastic is burnt, that all wood is tested for moisture and nothing above the agreed limits is burnt, and that all boiler waste is required to be removed by a licenced contractor and that the operators keep a daily log of start/ finish times and the weather conditions.

Environmental Health have not received any substantiated complaints about odour in the 5 years that this facility has been operating and I am confident that, with proper on-site management and appropriate checks in place, that this will continue.”

Wiltshire Council Highways Officer – No objection.

Environment Agency – No comment.

8. Publicity

The application was initially publicly advertised through the display of a site notice and at the site and 10 individually posted neighbour notification letters to local residents residing in properties along Whaddon Lane (and those who objected to PL/2021/10373). An advert was also published in the Wiltshire Times with a consultation deadline ending on 17 March 2023.

In response to the public notification exercise, 7 letters of objection and 1 letter of support have been received. The objections and comments are summarised below:

- This application does not address any of the fears raised in the last application
- Raising the flue has had little impact on the dispersal of the smoke
- You can see the chimney remains well below the height of the hill behind it, which caused a down draught so that the smoke does not dissipate
- Whichever way the wind blows, the smoke then adversely affects who's path its towards
- Highways is dangerous along this road without this adding to it
- There is a strong loss of amenity to all people around when using their gardens. We are often forced inside (property at Greenhill Gardens) due to the smoke from the flue
- This is not sustainable development. If waste is to be burnt there must be more efficient and productive ways such as turning the waste into electricity rather than being used to dry out wood chips
- Have WC properly considered the increasing risk to local people from air pollution along with the possible future degradation of the quality of the air due to the Westbury incinerator
- We still smell toxic flumes from the boiler
- The fumes are detrimental to the health and wellbeing of the children using the preschool
- Having a management plan is not protection against malpractice
- There is a proven record of burning contaminated waste at this site which should be sufficient as a stand alone issue to prevent any planning permission being granted
- The air quality report does not address PM2.5 emissions
- The Council's own reasons for condition accepts that there may be 'potentially harmful levels of smoke'

- This is a mixed use residential area not an industrial area
- Evidence has been submitted to the Council about smoke and out of hours use

A letter (although unsigned) from Aval Consulting Group was received which asserted the following:

- Accept that the air quality report concludes that concentrations of pollutants of concern are below relative air quality objectives, there are concerns as to how realistic the results are due to the model inputs, reliability of sources and the general management practices of the biomass boiler.
- The model does not evidence the day-to-day practice at Bekson Farm.
- If fuel is not stored correctly it has potential to have high moisture content which would result in inefficient combustion.
- Treated wood can release toxic chemicals when burnt which are not accounted for in the air quality model
- Topography has not been considered in the air quality assessment and could impact on results given that some modelled receptors are located uphill from the boiler.
- We would have expected a period of air quality monitoring, rather than modelling, should have been carried out
- Not enough consideration has been given to the odour impact of the boiler which should also have been measured on site.
- Note that the impact on Knoll Farm is 'slight-adverse' but no mitigation measures have been implemented. How does the applicant plan on preventing these adverse impacts?
- The impacts of the boiler will depend on how well the boiler is maintained and operated. There are a range of conditions which would affect its operation including over-filling, low furnace temperature, inadequate ventilation, fuel with high moisture content and different fuel types, all of which can result in incomplete combustion which causes smoke and odour
- How does the LPA propose to monitor and manage the operations of the boiler?
- Concern largely lies with there are reasons to believe that the boiler is not operated or managed as it should be and not with the methodology of the air quality assessment.
- Suggest ad-hoc visits by the LPA, period of air quality monitoring, site visits by an air quality consultant and a full operational management plan submitted to the LPA.

Officers note that since application PL/2021/10373 was refused there has been one Environmental Health complaint submitted to the Council. However, from the emailed pictures submitted as part of the complaint, the source of the smoke could not be verified (and it was hard to see any smoke in any case) and as a consequence, the complaint was closed following visits to both complainant and the Farm.

Furthermore, the outcome of this application is of interest to the Council's planning enforcement team as they are aware of the unauthorised continued use of the facility, and the enforcement team await the committee's decision before considering any action.

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

9.1.1. WCS paragraph 6.38 states that CP42 (standalone renewable energy installations) applies to all types of renewable energy including biomass generators and other energy from waste technologies. It is therefore submitted that WCS CP42 applies to this application as the end product of this boiler, the dried wood chip for the supply of other biomass boilers, is considered to be a renewable source of energy. The woodchip for biomass boilers to run on has to come from somewhere and requires its own process before being used in biomass generators.

9.1.2. CP42 states that proposals for standalone renewable energy schemes will be supported subject to the satisfactory resolution of all the site specific constraints. Proposals will need to demonstrate how impacts on the following factors have been satisfactorily assessed, including any cumulative effects, and taken into account:

- i) The landscape
- iv) Biodiversity
- vi) Use of local transport network
- vii) Residential amenity (including noise, odour and visual amenity and safety) and
- viii) Best and most versatile agricultural land

Therefore, subject to satisfying the above criteria, which shall be addressed in each section of this report, the principle of development under WCS CP42 is supported.

9.1.3. In regard to the land designation, the red lined application site is grade 3 agricultural land. Council records do not show if it is 3a or 3b but it is important to appreciate that this proposal does not constitute a loss of agricultural land. Council aerial photographs dating back to 2001 show that the application site was already laid to hardstanding at the time the main barn was used as a piggery, and consequently it has not in recent years been actively available for intensive high yielding crop production.

9.1.4. Furthermore, whilst the temporary permission has now expired it is still a recent planning permission that merits being given material weight in the planning balance. The reason for the temporary permission was *“in the interests of residential amenity”*, and in recognition that no environmental related health or planning enforcement complaints were received during the temporary period (and no substantiated complaints since the temporary permission expired), officers submit that the application to gain full permanent permission should be granted. The planning informatives imposed on the temporary permission were very clear in terms of stating that *“Should an Environmental Health complaint be received, and is upheld within the next two years, further planning permission would likely be very difficult to obtain once this temporary permission expires”*.

9.2 Air Quality and the Impact on neighbouring amenity

9.2.1. WCS CP57 (vii) requires development to have regard to the compatibility of adjoining buildings and uses and the impact on amenities of existing occupants, including the consideration of pollution e.g., smoke and fumes.

9.2.2. As part of the 19/06300/WCM application, the case officer and the previous Air Quality Environmental Health Officer undertook a planned site visit in August 2019. During the visit, officers observed a strong concentrated odour on the boundary with the closest neighbour Knoll Farm. This odour extended a significant distance down the access track – demonstrating that the odour could be experienced over a wide area. Officers did not visit Knoll Farm itself but given the intensity of the odour it is reasonable to conclude it would have also been present and observed within its own curtilage. However, it is important to note that the odour was only mostly noticeable to the east end of the bungalow at Bekson Farm. When stood at the western end of the building, the odour was not as intense or significant.

9.2.3. During the visit, the case officer and the Air Quality Officer reached the conclusion that the odour could have been caused by a number of factors. The wooden pallets being processed may not have been dry enough or that the boiler was not combusting correctly or efficiently enough, or that the flue was not high enough to disperse the fumes higher and wider. There was also the possibility that the boiler was burning treated wood – which at the time of the visit could not be discounted as officers did not see the content of the boiler before it was fired up. It was nevertheless noted that on the wooden pallet stacks there were several painted/treated pallets present.

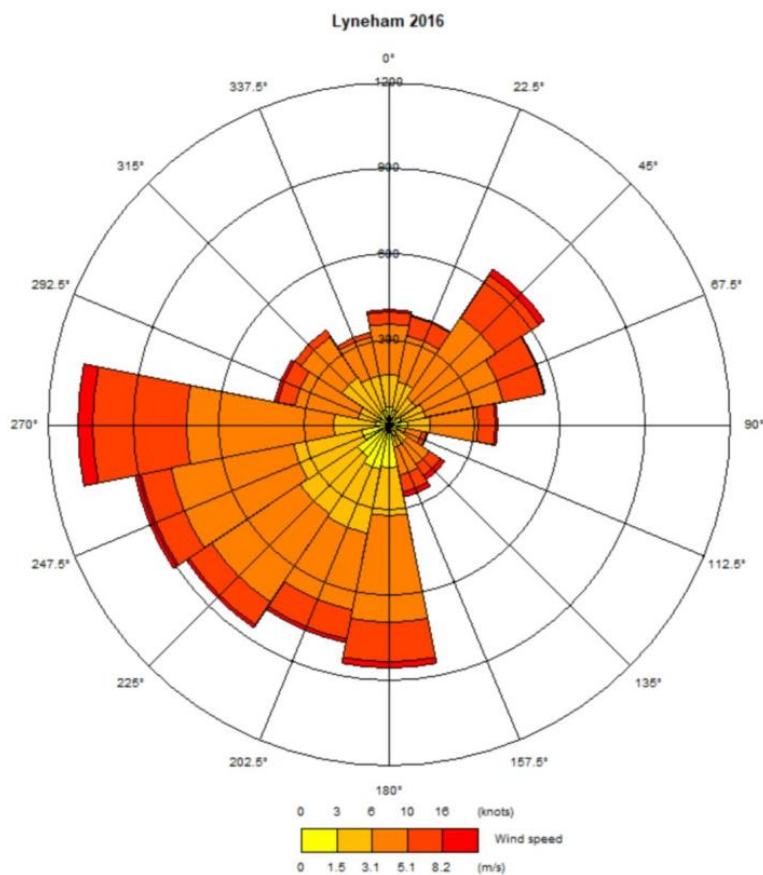
9.2.4. The August 2019 site visit highlighted sufficient concern for officers to formally request that the applicant provides an explanation as to what caused the odour. The Air Quality Officer also confirmed that he was of the view “*that the smoke observed (in August 2019) could constitute a statutory nuisance if the biomass boiler is allowed to continue as it appeared...*” This led to the original submission of the Air Quality Statement by the applicant in December 2019 as detailed in the proposal section.

9.2.5. The Air Quality Officer later accepted that what was observed during the joint officer site visit in August 2019 could have been fumes being created from start-up procedures, which can be more intense until the boiler gets up to speed.

9.2.6. Following the August visit, the case officer undertook a second site visit which included a visit to Knoll Farm in December 2019, prior to the temporary application being determined (which took until 10 February 2020). Despite it being a cold, foggy day, the case officer observed that wind was blowing eastwards towards Hilperton on that day and didn’t notice any material odour at Knoll Farm.

9.2.7. According to appendix 3f of the Governments Offshore Energy Strategic Environmental Assessment (SEA) “*The prevailing wind direction varies between south-south-west and north-west, with north easterly winds increasing in late winter and spring*”. Therefore, the prevailing wind isn’t solely from the southwest (which would blow smoke and odour towards Knoll Farm).

9.2.8. In the applicants Air Quality Report, wind rose data from Lyneham 2016 was submitted and is reproduced below. It shows that whilst there is a lot of wind from the south west, southerly winds are not uncommon (which would result in odour from the boiler bypassing Knoll Farm) and westerly winds which would blow over the agricultural land of Knoll Farm (and effectively miss the residential building and its curtilage) as well as easterly and northerly winds which would blow in the opposite direction to Knoll Farm.



9.2.9. Officers submit that Knoll Farm's residential curtilage is considered to be fairly tight around the building as shown by the yellow infill highlight on the Council's snip image of the application site on the second page of this report. The curtilage is considered to be defined by a retaining brick wall, with the field between the wall and the boundary used by livestock.

9.2.10. For the purposes of application PL/2021/10373, the case officer completed an (unannounced) site visit on 29 November 2021, first starting at Greenhill Gardens in Hilperton to check the boiler was in operation. The case officer then visited Knoll Farm for approximately two hours to observe odour from the operating boiler. For the first hour smoke from the boiler was blowing directly towards Knoll Farm and it was combined with chimney smoke coming from the residential unit of Bekson Farm (with weather records showing that it was 3 degrees at the time of the site visit).

9.2.11. For the avoidance of any doubt, the case officer is not an air quality or environmental health officer and can only report what he experienced and observed on site. In the first hour smoke was observed, however it did not appear acrid or toxic. It was not unlike walking in an urban location during the winter period when properties are using wood burners or open fires.

9.2.12. However, as soon as the first hour had past, the wind changed direction to a southerly direction and the smoke was redirected over the former piggery agricultural building. For the second hour, nothing material was observed at Knoll Farm.

9.2.13. In the first hour the case officer twice witnessed the boiler door being opened (presumably to re-fill with pallets) and during those times, a lot of smoke was produced and swirled around the site – which was carried with the wind initially towards Knoll Farm. During the second hour, the boiler door wasn't opened, by which time the wind direction had changed.

9.2.14. The application site is not in an Air Quality Management Area nor is it in an area of poor air quality. However, the applicant has provided an Air Quality Assessment which uses the IAQM guidance for Planning & Air Quality which is a non-statutory document and has no formal policy status. The guidance has not been adopted for use by the Council and it should be appreciated as the committee has been informed recently, that the Council's Public Protection Services continues to work on an emerging Air Quality SPD which will be published for consultation shortly.

9.2.15. The applicant's consultant wrongly refers to the Air Quality Strategy for Wiltshire 2011 which was superseded by a new document in 2019. The applicant's report is poorly presented with regard to air quality, but it is nevertheless the case that no exceedances are expected when tested against the LAQM Air Quality objectives. It would have been preferable to have seen data presented as relevant exposure in line with the LAQM. That said the report states that levels are below the 30.2ug/m³ Annual mean for nitrogen dioxide which is lower than the threshold used by the document for quantifying any impacts on air quality – with paragraph 5.2 of the report setting out that the levels of PM₁₀ & nitrogen dioxide would be close to the background levels.

9.2.16. Following a full consultation and liaison with the Council's environmental health team, officers submit that the applicant's air quality report shows that when clean wood is burnt and there are 'optimal conditions' the impact on Knoll Farm, as modelled, would be negligible; and when there are sub-optimal conditions the effects are recorded as slightly adverse. Whilst the case officer's own site observations in late November 2021 was limited to a single site visit and for a two-hour duration, the level of harm duly experienced was not considered to be of a level that would warrant a refusal of the application.

9.2.17. It is acknowledged that some harm and the effects of the use of the boiler can be mitigated through restricting the use of boiler and the hours of operation condition. This would provide third party respite from smoke pollution every evening and weekend. Additionally, with the documented and evidenced wind direction variances, third parties within the most affected local area would not experience material smoke levels, It is however accepted that this will depend and vary with the time of year and the weather conditions.

9.2.18. Unlike in application PL/2021/10373, when the applicants wanted to extend the hours of operation to include Saturdays and Sundays, the submission accepts proposed conditions 3 and 4 (the hours of operation and the number of containers that can be dried each week).

9.2.19. The applicant has also submitted, upon request from the Council's Environmental Health Officer an updated Boiler Management Plan. The plan includes details the processes to ensure the boiler is not overloaded, to keep it at a constant temperature and to fill the chamber at regular intervals. There is also a commitment to sample check the biomass fuel material with a moisture meter to ensure it has a low and appropriate moisture content range as specified by Ofgem and the accredited RHI scheme. This document was agreed with Environmental Health Officers prior to this application being submitted.

9.2.20. The updated plan includes a commitment to have 2 moisture meters retained on site at all times, and that no plastic material or treated or painted wood is burnt and processed through the boiler. Any such wood received by the applicant in any consignment must be rejected for burning and it shall be stored in a separate area and a record kept of its disposal. All boiler waste is to be removed from site by a licenced waste contractor and records kept. The applicant is also willing to agree to keeping a daily log of the weather conditions and times when the boiler is operated with start and finish times noted and the type and moisture content of all wood material being burnt.

9.2.21. The Council's public protection team has confirmed that ad hoc site visits would be undertaken to check compliance with the management plan, which includes a range of measures as requested in the Aval consulting ltd representation letter. Based on the above and in environmental terms, officers are supportive of the application, subject to planning conditions.

9.3 Impact on the landscape

9.3.1. The application site is not within the Western Wiltshire Green Belt, the Cotswolds AONB or any other locally designated landscape area.

9.3.2. The application site cannot be seen from Whaddon Lane itself due to the distance to the lane and the many hedges that line field boundaries. The site can be seen from Greenhill Gardens in Hilperton which is approximately 430m to the southwest. The views across the open countryside are open and generally unrestricted but Bekson Farm is reasonably enclosed by existing hedgerow which screen the majority of the existing agricultural barns. There is a small break in the hedgerow screen however immediately where the boiler is located. It is not known whether the hedgerow has been removed to allow for air flow or to reduce fire risk, but this gap allows for direct views of the boiler and the 6-metre-high flue/stack. It is submitted that despite the blue colour of the boiler and (silver colour) flue being visible and recently increased in height to 6 metres that it is not of a size, in a sensitive location or close enough to Hilperton to cause adverse harm to the landscape to warrant the refusal of the application.

9.3.3. Officers are also aware that public right of way HILP18 that runs northwest from the access road to the Marsh Farm complex of industrial and commercial uses across open countryside and up to Whaddon Lane as it continues to the Kennet and Avon Canal. HILP18 passes the application site at a distance of approximately 200m to the north and northwest. Along the public right of way there is only one viewpoint of the application site, a small gap in the hedgerow, but this only allows a brief and passing glimpse of the blue boiler container and the flue. It is also submitted that given the distance from the public right of way and the brief nature of the view it is not considered that the height of the flue or the size of the boiler causes adverse harm in which to refuse the application on landscape grounds.

9.4 Impact on the local transport network

9.4.1. Whilst it has not been quantified for the purposes of this application, as part of the 19/06300/WCM application, the applicants stated that the dried woodchip is taken out in single deliveries (with 34 recorded traffic movements for the period of 1 January 2019 and 14 October 2019)

- Between 1st January to 30th June 2019 the applicants collected 23 loads of wooden pallets, just under 1 per week

- Between 1st January to 30th June 2019 the applicants brought back 27 loads of waste wood from various forestry jobs.

9.4.2. The applicants have previously stated that the boiler generates approximately 12 trips per month which is submitted to be of a low frequency that should not cause harm to highway safety along Whaddon Lane. The applicants would also be limited in how many trips would be possible given the maximum 2 container loads that they can dry each week.

9.4.3. The applicants also previously stated as part of the 19/06300WCM application, that the journeys are akin to that used in the former piggery use, but details of that operation are unknown and therefore are not directly comparable. However, it is reasonable to consider that an agricultural use could easily generate the same number of journeys as described.

9.4.4. It is also submitted that it is not necessary or reasonable to require this application to solve an existing highway issue down Whaddon Lane by requiring a passing place to be introduced. This would also require the landowner consent and a suitable location to be identified. Passing places should be a matter for the Parish Council to pursue in either a Parish Plan or via the Hilperton Neighbourhood Plan process.

9.5 Biodiversity

9.5.1. The boiler is located on an area of hardstanding that Council aerial photographs demonstrate has been there since 2001 and would have been used in conjunction with the adjacent piggeries barn. Therefore, the introduction of the boiler would have been unlikely to cause harm to existing protected species or result in a net loss of biodiversity.

9.5.2. There is potential for the smoke to cause harm to bats, or birds who could use either barn for roosts or nests; but the piggeries barn is quite large and the northern section of the barn would be unlikely to receive constant direct smoke as the has been evidenced to blow in all directions. Additionally, bats would be active in dusk/night time hours, which would generally be the same times when the boiler should not be in operation after 6pm as per the hours of operation condition. Therefore, it is considered that the risk to protected species is acceptable and that surveys etc are not required.

10. Conclusion

Whilst the exact length of time the boiler has been on site in unknown (stated to be 2016) Officers can confirm that no Environmental Health evidenced complaint has been substantiated pursuant to the allegations of prohibitive material being used in the boiler and the harm from the smoke itself. The planning enforcement team are fully aware of the breach of planning control following the expiration of the temporary planning permission and await the outcome of this application. The applicant is willing to adhere to the restricted hours of operation and the number of container load conditions. Condition 2 would ensure a more robust management plan for the use of the boiler and how it operates. Whilst it is accepted that the boiler will result in smoke pollution, the Council's public protection/ environmental health team have concluded that with the appropriate planning conditions in place and adherence to the aforementioned restrictions, the application can be supported.

The applicant has also directly responded to request made within the Member debate at the July 6 2022 committee meeting to increase the height of the flue, which would enable better dispersion of smoke from the boiler.

11. Recommendation – Approve subject to conditions

Planning Conditions:

1. The development hereby approved is subject to the following plans and associated documents:

Site Location Plan, Block Plan, Biomass Boiler and Container details (photos), Air Quality Statement (dated December 2019), Cover letter (supporting statement), Biomass details, Biofuel Report, Biomass Manufacturer details and Biomass Boiler Service Record – all received 17 November 2022 and; Management Plan (for the operation of a Glen Farrow Biomass Boiler) and Boiler Operation and Maintenance Plan – dated and received 27 March 2023.

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

2. The operation of the boiler shall strictly adhere to, at all times thereafter, the approved details of the Management Plan (dated 27 March 2023).

REASON: In the interests of residential amenity to protect from potentially harmful levels of smoke, fumes and general disturbance from the operation of the boiler.

3. The use and operation of the boiler hereby permitted shall only take place between the hours of 06:00 and 18:00 from Mondays to Fridays. The use and operation of the boiler shall not take place at any time on Saturdays, Sundays and Bank or Public Holidays.

REASON: In the interests of residential amenity to protect from potentially harmful levels of smoke, fumes and general disturbance from the operation of the boiler.

4. No more than two container loads of woodchip for biomass shall be dried on site in a week.

REASON: In the interests of residential amenity to protect from potentially harmful levels of smoke, fumes and general disturbance from the operation of the boiler and in the interests of highway safety.

INFORMATIVES TO APPLICANT:

1. The applicant is respectfully advised that compliance with the boiler management plan, conditions would not preclude the Council's Environmental Health Department taking formal action should a statutory nuisance ever be proven following receipt of complaint.

2. The applicant is respectfully advised that the boiler should not be operated if the wind direction is such that it would lead to smoke going toward the nearest receptor which is approximately 120m to the North East (at Knoll Farm).

**27th March 2023 - Management Plan for the Operation of a Glen Farrow UK Ltd
Biomass Boiler Model GF295**

Location - Bekson Farm, 54 Whaddon Lane, Hilperton, Trowbridge, BA14 7RN

The purpose of this document is to ensure that the boiler if operated in order to minimise smoke emissions as set out below and in conjunction with the manufacturers GF295 Boiler Operation and Maintenance Plan and the best practice set out in Section A5 of the Air Quality Assessment and utilise guidance set out within the Process Guidance Note PG1/12(13); Statutory Guidance for Combustion of Waste Wood.

1	Over-filling	Loading of the boiler is undertaken manually. The chamber is filled up to 35% of its volume which is the maximum acceptable it should be subjected to at any one time.
2	Low furnace temperature	The temperature is digitally set and maintained at a constant temperature of between 70-80°C. The chamber is filled at regular intervals during the day to ensure that the temperature is maintained.
3	Inadequate Ventilation	<p>The boiler is fitted with three blower bars, one in the base and two on the sides. The fan located at the rear of these bars is run at 80% of its capacity to push air into the combustion chamber to feed oxygen to the fire. The boiler is cleaned on a weekly basis to ensure that these bars remain free from debris.</p> <p>The main chamber, flue fan chamber, chimney and air tubes are cleaned/swept on a monthly basis to ensure that adequate ventilation is maintained.</p>
4	Fuel with a high moisture content	<p>All loads of biomass fuel are sample checked with a moisture meter to ensure they are within the acceptable moisture content range as specified by Ofgem and accredited to the RHI Scheme.</p> <ul style="list-style-type: none"> • Waste pallets <18% • Soft and/or hard wood logs <23%

		Any material above this is dried down to the acceptable level using the heat generated by the boiler.
5	Moisture Meter	2 moisture meters to be retained on site at all times.
6	Different fuel type (to that assumed in the assessment)	Only acceptable biomass fuels as registered in our RHI application are used with the moisture content within the ranges stated above. No plastic waste is to be burnt. Any plastic attached to pallets of to be removed prior to burning. No treated/painted wood is to be burnt. Any such wood received is to be rejected for burning, stored in a separate area and a record of its disposal kept.
7	Boiler Waste	All boiler waste is to be removed from site by a licensed waste contractor and a record kept of when this is removed and by whom.
8	Operational Requirement	A daily log is to be kept of weather conditions (including wind directions), times of operation of the boiler (start and finish time noted) and the type and moisture content of all wood burnt.
9	Servicing	A full service is to be undertaken by the manufacturer (or other qualified engineer) on an annual basis and a record kept.
10	Local Authority	All logs/paperwork to be kept and made available to the Local Authority on request. LA to be informed without delay should any problems arise.
11	Break Down	In the event of a breakdown of any key plant associated with the process (e.g. fans, pumps etc), burning operations will cease until a full repair can be effected.

Glen Farrow Boiler Operation and Maintenance Plan

Boiler to be cleaned and de-ashed once a week manually. The heat exchange tubes to be cleaned weekly by brushing them with the wire brush.

Boiler operative will monitor levels of ash and dust deposits in the boiler while loading the boiler and decide if it needs cleaning more often. Boiler stack will be inspected weekly during the boiler cleaning and swept if necessary.

Daily inspections including:

- Check for build-up of ash in the chamber and clearing if necessary
- Check the blower bars are clear of ash and debris
- Check the heat exchange tubes are not blocked
- Check if doors are operating as normal
- The pumps for faults
- Leaks on the pipework and safety pressure relief valve
- Control panel operation and water temperature reading
- Burner fan working and free from blockages
- Heat meter operational
- Area around the boiler is clear of ash and debris

Weekly Inspections

- Clear the ash from the chamber
- Remove and check the blower bars
- Scrape and brush the heat exchange tubes
- Clear the chimney box
- Check the flue for blockages and sweep if necessary
- Check the burner fan for dust and debris
- Check the main pumps
- Check the shunt pump and flow switch operation
- Grease the door bearings

Glen Farrow engineers are available on the phone for any help, advice or assistance at all times.

Particulars of the GF295 Biomass Boiler

Glen Farrow biomass boiler GF295 is 295 KW capacity. Batch fed boiler type boiler. Combustion efficiency reaches approximately 90%. Boiler thermal efficiency is approximately 70%. Boiler fuel burn rate is 30.83 kg/hr.

Glen Farrow GF295 boiler is designed to burn biomass fuel such as wooden logs and straw bales. The boiler is batch fed type boiler, meaning that the fuel is loaded manually through the main door into a combustion chamber.

Combustion is achieved by manually lighting the fuel and with the help of the burner fan the fuel keeps alight. The burner fan, located at the rear of the boiler, is forcing the air through the blower bar into the chamber to achieve intense combustion. Blower bars `re positioned to direct the air underneath the fuel for primary ignition processes and deliver the air above the fuel to achieve secondary combustion. The burner fan speed can be controlled manually with the speed controller located at the control panel to suit the heat demand and achieve better combustion performance.

The combustion gases leave the chamber through the heat exchange tubes into the chimney box, where the unburnt fuel particulates settle, and up to the insulated flue, then being discharged into the atmosphere.

The combustion gases are heating water jacket surrounding the chamber and heat exchange tubes. To maximise amount of harvested heat, the door is filled with water which is circulated by a shunt pump at the rear of the boiler. The combustion chamber is built from 10mm thick boiler plate which increases durability of the boiler.

The water jacket around the chamber is 60mm wide and holds approx. 3000 ltr of water. The boiler then is insulated using insulation board and rockwool to minimise heat loss.

The boiler is clad with stainless steel cladding and prime coated and painted trimming.

The GF295 boiler is batch fed type boiler, meaning the fuel is loaded manually through the main door into a combustion chamber by trained personnel.

The boiler will be loaded with small amounts of fuel trying to build the fire up and keep it burning at high temperatures by introducing small amounts of fuel into hot fire when needed. Loading routine will be adjusted to meet the system demand.

The control panel located in the control room, helps the operator to monitor the temperatures and adjust the burn rate by adjusting the burner fan speed.

The boiler chamber will collect most of the ash and some of it will settle in the chimney box, which will be cleaned on a weekly basis.

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Town & Country Planning Act 1990

Notification of Full Planning

Application Reference Number: 19/06300/WCM

<p>Agent Mr Stuart Anderson Willis & Co (Town Planning) Ltd 30 The Causeway Chippenham SN15 3DB</p>	<p>Applicant Mr and Mrs Holloway Bekson Farm 54 Whaddon Lane Hilperton BA14 7RN</p>
<p>Particulars of Development: Change of use to waste recovery operation and Siting of a Biomass boiler and container for the control unit</p>	
<p>At: Bekson Farm 54 Whaddon Lane Hilperton BA14 7RN</p>	

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

In accordance with paragraph 38 of the National Planning Policy Framework, Wiltshire Council has worked proactively to secure this development to improve the economic, social and environmental conditions of the area.

Subject to the following conditions:

1. The Boiler and its flue, the boiler control container and all connecting apparatus hereby permitted shall be removed, and the use (the production of wood chip) hereby permitted shall be discontinued, and the land restored to its former condition (hardstanding) on or before 10 February 2022 in accordance with a scheme of work submitted to and approved in writing by the Local Planning Authority.

REASON: In the interests of residential amenity, in order to secure the restoration of the land upon removal of the boiler and use for which permission can be justified only on the basis of a special temporary need.

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

Design and Access Statement, Site Location Plan, Glen Farrow Boiler details – all received 1 July 2019; Biofuel Report, Glen Farrow RHI Certificate and Letter and RHI Emissions Certificate - all received 5 November 2019 and; Air Quality Statement 24 December 2019.

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

3. Within one month of this permission, a boiler Management Plan that identifies how the following boiler fuel issues will be managed;

- Over-filling
- Low furnace temperature
- Inadequate ventilation
- Fuel with a high moisture content
- Different fuel type (to that assumed in the assessment)

shall be submitted to and approved in writing by the local planning authority. The operation of the boiler shall be carried out in strict accordance with the approved details.

REASON: In the interests of residential amenity to protect from potentially harmful levels of smoke, fumes and general disturbance from the operation of the boiler.

4. The use and operation of the boiler hereby permitted shall only take place between the hours of 0600 in the morning and 1800 in the evening from Mondays to Fridays. The use and operation of the boiler shall not take place at any time on Saturdays, Sundays and Bank or Public Holidays.

REASON: In the interests of residential amenity to protect from potentially harmful levels of smoke, fumes and general disturbance from the operation of the boiler.

5. No more than two container loads of woodchip for biomass shall be dried on site in a week.

REASON: In the interests of residential amenity to protect from potentially harmful levels of smoke, fumes and general disturbance from the operation of the boiler and in the interests of highway safety.

INFORMATIVES TO APPLICANT:

1. The applicant is respectfully advised to continue to consider increasing the height of the flue and/or to move the boiler to the other side of the former piggeries barn. Should an Environmental Health complaint be received, and is upheld within the next two years, further planning permission would be likely to be very difficult to obtain once this temporary permission expires. In any such circumstances significant alterations and/or further evidence will be required to satisfy that the boiler can operate without causing potential harm to neighbouring amenity.
2. The applicant is respectfully advised to consider finding a storage solution, to be able to store all wooden pallets and logs for combustion in the boiler, under cover, as the moisture content of the pallets will affect the rate that they burn and how much smoke and fumes they produce. This may require securing planning permission for a further structure on site.

Signed

Sam Fox

Director Economic Development & Planning

Dated: 10 February 2020

Town and Country Planning Act 1990
PERMISSION FOR DEVELOPMENT
NOTES

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

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

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

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

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

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

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

expiry of the specified period;

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

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

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

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

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

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

(a) is served on or after— (i) the date of the notice of the decision or determination giving rise to the

appeal, or (ii) the expiry of the specified period;

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

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

3. **Purchase Notices.** If permission to develop land is granted subject to conditions, whether by the local planning authority or by the Secretary of State for Communities and Local Government, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, he may serve on the Council a purchase notice requiring the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.
4. **Compensation.** In certain circumstances, a claim may be made against the local planning authority for compensation, where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in Section 114 of the Town and Country Planning Act 1990.
5. **Discharge of Conditions.** There is now a fee for applications to discharge planning conditions, details of which are set out on the Council’s website. The fee is payable per request and not per condition. The fee must be paid when the request is made, and cannot be received retrospectively. It does not matter when the permission was granted as long as it remains extant. The request, identifying the permission (with reference number) and the conditions concerned, should be made by using the 1 APP forms which are available on the Councils Website or the Planning Portal.

You are advised that the as local planning authority has up to 12 weeks to consider the request, that you apply well in advance of when you intend to start work
6. **Street naming and numbering.** If this permission relates to the creation of new dwellings/commercial units or conversion of buildings into dwellings/commercial units, you are required to apply for street naming and numbering to ensure that the new buildings are allocated accurate addresses and registered with the Royal Mail. Relevant application forms, guidance notes and fee sheets are available to download at <http://www.wiltshire.gov.uk/planninganddevelopment/streetnaming> or you can contact the Address Information Team on 01225 770508 or by email at streetnaming@wiltshire.gov.uk
7. **Informative** There is a legal duty of care incumbent on the customer and contractor that all commercial waste generated as a result of the works hereby authorised is safely contained, transported and disposed of lawfully in line with the Environmental Protection Act 1990 and Environmental Permitting Regulations 2016 (as well as any other related legislation). Failing to do so can lead to individuals or organisations being prosecuted for unlawful waste management.

CASE OFFICER'S REPORT

Application Reference: 19/06300/WCM
Date of Inspection: 15/08/2019 and 07/02/2020
Date site notice posted: 16/08/2019
Date of press notice: n/a

SITE ADDRESS: Bekson Farm 54 Whaddon Lane Hilperton BA14 7RN
PROPOSAL: Change of use to waste recovery operation and Siting of a Biomass boiler and container for the control unit

POLICIES

Wiltshire Core Strategy (WCS): CP42 – Standalone Renewable Energy Installations; CP51 – Landscape; CP55 Air Quality; CP57 Ensuring High Quality Design and Place Shaping

Wiltshire and Swindon Waste Core Strategy 2006-2026 - Policy WCS3

Hilperton Neighbourhood Plan

The National Planning Policy Framework (NPPF) and NPPG

ISSUES

- Principle of development
- Impact on neighbouring amenity
- Impact on the landscape
- Impact on highway safety
- Impact on biodiversity

CONSULTATION RESPONSES

Councillor Clark – No objection (or need to retain the call in to Planning Committee) subject to a temporary permission

Hilperton Parish Council – “No comment to make” but “we would ask the planning authority to ensure that the products being burnt in the boiler are not producing any harmful emissions.”

Wiltshire Council Air Quality Officer – No objection subject to a trial two year temporary permission

The Air Quality Consultants report has provided some context for what we witnessed on site. It is not inconceivable that what we witnessed may have been a function of fuel management or start up periods.

Given the location of the farm and the prevailing background levels of nitrogen dioxide (NO₂) and particulates (PM₁₀) it is noted that these remain within objectives with the biomass boiler present. As you know it has been made clear to both planning and the applicants agent/consultants that Public Protections’ principle concern relates to the potential for impacts upon amenity from smoke and odour; given yours and my observations of smoke blowing into Knoll Farm during our site visit in August 2019.

It would appear that the odour pathway between Knoll Farm and the biomass boiler is only moderately effective at reducing odour at Knoll Farm which is downwind; and that Air Quality Consultants have identified a ‘slight adverse effect’ risk in respect of odour at Knoll Farm.

Given the uncertainties of modelling and prediction even where conservative inputs are used, Public Protections view is that only a temporary permission can be supported in view of the above and that this must be accompanied by a boiler management plan that identifies how the following boiler fuel issues will be managed:

- Over-filling
- Low furnace temperature
- Inadequate ventilation
- Fuel with a high moisture content
- Different fuel type (to that assumed in the assessment)

Engineering options for the boiler flue height and location appear to have been considered only in respect of their impact upon pollutants levels which we note are within AQ objectives. Public Protection are more interested to know what if any impact raising the height or changing the location of the boiler flue will have upon the odour pathway and risk of impacts at Knoll Farm?

Public protection do not consider a risk of smoke generation during short start up periods to be grounds for refusal.

Wiltshire Council Highways Officer – No objection

REPRESENTATIONS

2 letters of objection received

- Unsuitable road access and Whaddon Lane gets damaged and needs passing places. This will only increase traffic
- Concern over air pollution and need to comply with Clean Air Act
- Are the pallets waste products?
- Does this use comply with its agricultural status and isn't a waste transfer site?

For the avoidance of any doubt one of the objection letters was received when the application had a suffix of FUL (full planning application. Once it was understood by the Council that waste wood is brought to the site for processing into woodchip, the suffix of the application was changed to WCM (waste application) and re-advertised. The Council therefore has considered the application as a waste recovery application (but only of agriculturally sourced timber products). The pallets are used to run the boiler, not to be turned into wood chip.

2 letters of support received

- We live to the south west of the boiler – we've never experienced problems with noise, odour or smoke
- No nuisance has been caused to a stable yard in front of the boiler

However, Officers note that no objection from the immediate neighbour No 56 Knoll Farm has been received.

ASSESSMENT

This is an application for the change of use of open countryside to a waste recovery operation and the siting of a biomass boiler and container for the control unit at Bekson Farm, 54 Whaddon Lane.

Bekson Farm comprises of a residential bungalow (which has an agricultural tie) and two barns. The first larger barn (to the north of the boiler) used to be a piggery first approved in applications W/76/99848/HIS W/77/00333/HIS.

The second barn (to the south of the boiler) was approved under application 14/09400/FUL.

The small agricultural field is understood to be used to grow grass for hay. It is understood that the applicants run a forestry and agriculturally linked businesses from the site.

There is only one residential property within the immediate vicinity of the application site, Knoll Farm, where the boundary is approximately 50 metres away from the boiler, but its residential curtilage is considered to be approximately 110 metres away. There are also a further three dwellings approximately 190 metres (and beyond) to the south east. Hilperton is approximately 350-400 metres away to the south west. Apart from Knoll Farm, the rest of the surrounding area is open countryside.

On the site visit the case officer viewed the smaller modern barn and confirmed that it looks like it is used for agricultural storage (e.g. storage of a tractor).

The boiler comprises of a metal 'box' and has a flue which is approximately 4 metres high (no elevation plans were submitted). It is connected to a rectangular blue container unit which houses the control unit. The control unit turns the boiler on and off and sets the combustion and efficiency rate of the boiler. On the site visit (conducted with the Council's Air Quality Officer) the applicants demonstrated the boiler on full power as well as the preferred setting of 70% to allow for the external noise level to be observed.

The boiler is powered by burning wooden pallets which are sourced from a local factory (the Consortium Education – approximately 1 and half miles away) which are collected by the applicants themselves. Only pallets that are accepted on site are non-painted and non-treated pallets and are therefore suitable for burning. The pallets are stored outside without any cover from the elements. The heat from the boiler is then used to dry wood chip which is dried in a further open top container located immediately next to the boiler, connected by pipework. The wood chip is sourced from associated businesses (e.g. tree surgeons and forestry work) where waste timber is brought to the site, chipped and then added to the container for drying. The dried woodchip is then sold on for other biomass boilers to use (currently one customer who uses it to heat the sheds of two chicken farm buildings).

For the avoidance of any doubt this is a retrospective application, and all communications between the case officer and consultees and other parties (e.g. neighbours) have understood the application to be retrospective.

The applicants have submitted the following documents in support of their application:

- Design and Access Statement
- RHI Certificate and Emissions Certificates
- Boiler service record
- Air Quality Report

The applicants also submit that the boiler was installed and operated in December 2016 and to date there has not been a complaint either to planning or environmental health. The applicants state that the only reason for submitting the application has been a change in policy of the boiler providers that in order to renew the licences, planning permission should be sought.

For the avoidance of any doubt, this boiler and the use requires planning permission and had the applicants asked or sought advice from the Council prior to installing the boiler this would have been confirmed.

The applicants have confirmed the following;

- The boiler is run roughly between 8am and 6pm over a maximum of 5 days, sometimes on a Saturday but never a Sunday
- The applicants dry 1 to 1.5 containers of wood chip a week (but sometimes 2 containers per week)
- They normally allow 3 days to dry 1 container, 2 containers would be possible over the full 50 hours, but they'd like 3 days to be on the safe side. One container therefore takes approx. 30 hours to dry
- The dried woodchip is taken out in single delivery's (approximately 34 so far between 1 January 2019 and 14 October 2019)
- Between 1st January to 30th June 2019 the applicants collected 23 loads of wooden pallets, just under 1 per week
- Between 1st January to 30th June 2019 the applicants brought back 27 loads of waste wood from various forestry jobs

Following a site visit it was concluded that a noise survey was not necessary as even operating at 100% the noise was not considered to be loud enough to warrant a survey.

Principle of development:

WCS Preamble 6.38 states that CP42 applies to all types of renewable energy including biomass generators and other energy from waste technologies. It is therefore considered that WCS CP42 applies to this application as the end product of this boiler, wood chip for supply of other biomass boilers, is considered to be a renewable source of energy. The woodchip for biomass boilers to run on has to come from somewhere and requires its own process before being used in biomass generators. It is considered that it would be a tenuous reason for refusal should this application be refused because this specific type of renewable use isn't a listed '*standalone renewable energy installation*' itself. Therefore, it is considered that CP42 applies to this application.

CP42 states that proposals for standalone renewable energy schemes will be supported subject to satisfactory resolution of all site specific constraints. Proposals will need to demonstrate how impacts on the following factors have been satisfactorily assessed, including any cumulative effects, and taken into account:

- The landscape
- Biodiversity
- Residential amenity (including noise, odour and visual amenity and safety)

Therefore subject to satisfying the above criteria, the principle of development under WCS CP42 is supported.

Impact on neighbouring amenity:

WCS CP57 (vii) requires development to have regard to the compatibility of adjoining buildings and uses and the impact on amenities of existing occupants, including the consideration of pollution.

On the joint August 2019 site visit conducted with the Council's Air Quality Officer (the site visit was also conducted under an arranged appointment) Officers experienced a strong concentrated odour/smell on the boundary with the closest neighbour Knoll Farm. This odour/smell extended a fair distance down the access track – demonstrating that the odour

can be experienced over a wide area. Officers did not visit Knoll Farm itself but given the intensity of the odour it is reasonable to conclude it would have also been present within their boundary. However, it is important to note that the odour was mostly only strongly noticeable to the east end of the bungalow of Bekson Farm; when stood at the western end of the building the odour as not as intense or indeed as noticeable.

It also has to be considered that Knoll Farm's residential curtilage is considered to be fairly tight around the building (defined by a retaining brick wall), with the field between the wall and the boundary used by livestock. The residential curtilage is therefore not considered to extend up to the boundary where the intense odour was observed. Therefore, Officers accept that there may be some (but only very limited) doubt as to the extent of the smell/odour problem that could reach Knoll Farm itself and Officers did not visit Knoll Farm at the time to confirm. However, this is not to say that the occupants of Knoll Farm could still be present and active outside their residential curtilage, tending to the livestock and that they have a barn of their own (within the property boundary) that would undoubtedly been subject to that odour witnessed on site. Knoll Farm's barn is in the direct line of sight from the boiler and the eastern end of Bekson Farm, and therefore would have been subject to the likely wind direction on that day carrying the observed odour/smell across.

Nonetheless, on the site visit the odour was considered to be harmful should it be experienced by neighbouring amenity (Knoll Farm) and given that it was witnessed at an arranged time, raised sufficient concerns to request the applicant to provide explanation as to what this was, why it was happening and to provide mitigation if necessary.

The odour/smell could have been caused by a number of factors; the wooden pallets were not dry enough (unlikely due to the August summer site visit date), or the boiler wasn't combusting correctly or efficiently enough etc, or that the flue isn't high enough to disperse the fumes higher and wider. There is also the small possibility that the boiler was burning treated wood as Officers did not see the content of the boiler before it was fired up. It is also noted that in the wooden pallet stacks there was the odd painted/treated pallet. Officers stress that they were only noted to be on site – and do not state that they are burnt on site or in the boiler.

Initially the applicants (via the boiler manufacturer) suggested to extend the flue by a further two metres (to approximately 6 metres) but did not explain what the problem was nor why this solution would work. Officers therefore requested further information via an odour/air quality survey, which was eventually submitted (and sent out for neighbour re-consultation).

The submitted air quality report assessed the pollutant content of the emissions (and it is understood that this estimated the emissions and didn't test it) and found it to be 'low risk'. However, what the air quality report didn't cover was 'odour' and its impact on residential amenity, which is what Officers wanted the assessment to be based on. The report did however, provide some context of what was witnessed on site, and that it may have been a function of fuel management or start up periods.

The Council's Air Quality Officer stated in the consultation response on 6 January 2020 that; *"Public Protection would like know what if any impact raising the height or changing the location of the boiler flue will have upon the odour pathway and risk of impacts at Knoll Farm"* i.e. it still hasn't been demonstrated that the odour impact on Knoll Farm has been proven to be acceptable.

The Councils' Air Quality Officer accepts that what was witnessed on the joint site visit could have been fumes from start-up procedures, which can be bad until the boiler gets up to speed, and that this alone would not have been enough in which to refuse the application. For the avoidance of any doubt, if the fumes were not as a result of 'start up', and are actually the norm, then it is considered that the application would have been refused on neighbouring

amenity grounds. Without a formal objection to this application from Knoll Farm, or an environmental health complaint (including the alleged operation start in December 2016) further joint site visits have not be considered necessary.

As the full extent of the odour issue is still unknown and taking into account the absence of an objection from the most potentially affected neighbour, Officers consider that the most pragmatic way forward is to allow a two-year temporary permission to formally allow for a trial period. Officers consider that if what was witnessed on site was fully experienced by Knoll Farm, and for considerable periods of time then this would cause sufficient harm to their amenity in which to warrant the refusal of the application. However, the air quality report provided some context that it could have been caused by the start-up period of the boiler. As this consideration is now in the public domain, the Council will consider any Environmental Health complaints received in this time.

Officers also consider it to be reasonable and necessary to add a condition to restrict operating hours. In the applicants submitted details, usually only 1-1.5 container loads of wood chip are dried each week – and that to dry one container takes approximately 30 hours. As per the submitted details, if running between 8am-6pm (10 hours) on a Monday to Wednesday, then one container can be dried, and the remaining time can be used for transfer and to dry the further half a container within this usual 50-hour period. The applicants also stated, *“it is possible to dry 2 containers in a 50-hour period”*. Therefore, the existing Saturday running isn't or shouldn't always be required. The applicants have since further requested operational times of 8am-6pm Monday to Friday and 9am-4pm on a Saturday, a total of 57 hours.

It has not been demonstrated if the *“possibility to dry 2 containers in a 50 hour period”* would require the boiler to run at 100% (rather than the preferred 70%) and thereby in theory produce more smoke, pollutants and potential odour from having to burn more fuel at the boilers 100% maximum rate. However, Officers consider an alternative time period of 6am to 6pm Monday to Friday (total of 60 hours) with no operation on weekends and bank holidays, to meet the 6 tests of condition especially the tests of reasonableness and necessity.

As there could still be harm to neighbouring amenity from odour, it is considered that there is a need to protect Knoll farm in the evening and fully on a weekend. In appeal reference APP/Y3940/W/18/3216228 for refused planning application 18/04589/FUL (an extension to an industrial unit and new turning head for vehicle access adjacent to residential dwellings) paragraph 22 sets out that *“Saturday mornings are a time when people are reasonably entitled to expect some respite”*.

Officers consider that a condition restricting the boiler operation time to 6am-6pm Monday-Friday, with no use on a Saturday, Sunday or Bank Holiday would allow the applicants sufficient hours to complete the drying of two container loads whilst at the same time allowing neighbours some protection at key times should there still be an odour issue over the two-year temporary permission.

The two conditions are tied together; i.e. had it been proven beyond doubt the boiler isn't harmful to neighbouring amenity it probably wouldn't have been necessary for the temporary permission. If the temporary permission does cause harm to neighbouring amenity, then at least it should be restricted to the conditioned hours to allow for a compromise trial run.

For the avoidance of any doubt, even in the potential event of a permanent permission after two years, the hours of operation condition may still be deemed to be necessary. It may transpire that there are still some neighbouring amenity issues, but they could be reasonably controlled by an hours of operation condition. If the applicants air quality consultant could have evidenced and demonstrated to the Council's satisfaction about the effect of e.g. chimney height raising on odour pathways, which wasn't covered in the air quality report, this may have

provided some scope for agreeing longer operating hours, potentially including Saturdays. However, despite the applicant's consultant knowing about this concern as there was discussions between the consultant and Council Officers (and Glenn Farrow suggested raising the height of the flue by 2 metres) it wasn't included in their air quality report.

As the odour impact on amenity is still relatively unknown it is considered that the suggested operating hours restriction to be not only in accordance with the 6 tests of condition but also a pragmatic compromise.

The case officer has undertaken a further site visit to Knoll Farm on 7 February 2020 (circa 9am) and witnessed smoke from the flue but as the wind was blowing in a westerly direction (from the east) any smell or fumes would have been blown towards Hilperton, dispersing over the open countryside. The weather was reasonably cold and misty which is understood to have potential to exacerbate 'smog' or pollution potential; but as there was a gentle breeze in the opposite direction no harm to Knoll Farm was observed.

It also has to be taken into account that the applicants own home is between the boiler flue and Knoll Farm. On the joint site visit the smell was very potent immediately to the east end of the building (albeit where an extension approved under W/08/02276/FUL) remains unfinished) but it is in the applicants own health considerations, as they live and work there to ensure that no contaminated wood source is used to burn in the boiler and that it is run as efficiently as possible to minimise smoke, fumes and odour potential on themselves and their neighbours.

For the avoidance of any doubt, Officers have sought potential mitigations including;

- Raising the height of the flue to increase dispersal potential
- Move the boiler to the other side of the piggeries barn. Knoll Farm would no longer be in the predominate prevailing south west wind direction. The applicants should be able to route water and electricity supply through the barn
- Encourage the storage of the pallets to be under cover. The Council could favourably consider another structure or container to be erected on site.

The applicants are advised to consider these as options when reapplying for planning permission when the two-year period expires. If complaints are received in this time, which are upheld, this could lead to either Environmental Health action or the refusal of the new planning application, which in turn could lead to planning enforcement action. It may transpire over the next two years that what was experienced on the joint site visit wasn't from the 'start up' and is a common and more widespread issue than evidenced in this application.

Officers have also witnessed the boiler operating at 100% capacity (burn rate) which was noticeably louder than when operated at the applicants preferred (and most efficient) 70% level – but even at 100% the noise was not noticeable audible on the site boundary. Therefore, noise from the boiler is not considered to cause any harm to neighbouring amenity.

Impact on the landscape:

The case officer viewed the application site from Greenhill Gardens in Hilperton which is approximately 430 metres to the south west. The views across the open countryside are open and generally unrestricted but Bekson Farm is reasonably enclosed by existing hedgerow which screen the majority of the existing agricultural barns. There is a small break in the hedgerow screen however immediately where the boiler is located. It is not known whether the hedgerow has been removed to allow for air flow or to reduce fire risk, but this gap allows for direct views of the boiler and the circa 4-metre-high flue. It is submitted that despite the boiler and flue being visible, especially due to its blue colour, that it is not of a size, in a

sensitive location or close enough to Hilperton to cause adverse harm to warrant the refusal of the application.

Views were also taken from walking along public right of way HILP18 which runs partly on the access road to the Marsh Farm complex of industrial units and then across open countryside which then passes the application site approximately 200 metres to the north and north west. Along the public right of way there is only one viewpoint of the application site, a small gap in the hedgerow, but this only allows a brief and passing glimpse of the blue boiler container and the flue. It is also submitted that given the distance from the public right of way and the brief nature of the view it is not considered that the height of the flue or the size of the boiler causes adverse harm in which to refuse the application on landscape grounds.

Impact on highway safety:

It is considered that the applicant has satisfactorily demonstrated that the pallet deliveries and the movement of the woodchip are low frequency events that should not cause harm to highway safety along Whaddon Lane.

The applicants state that the journeys are akin to that used in the former piggery use, but details of that operation are unknown and therefore are not directly comparable. However, it is reasonable to consider that an agricultural use could easily generate the same number of journeys described in this application.

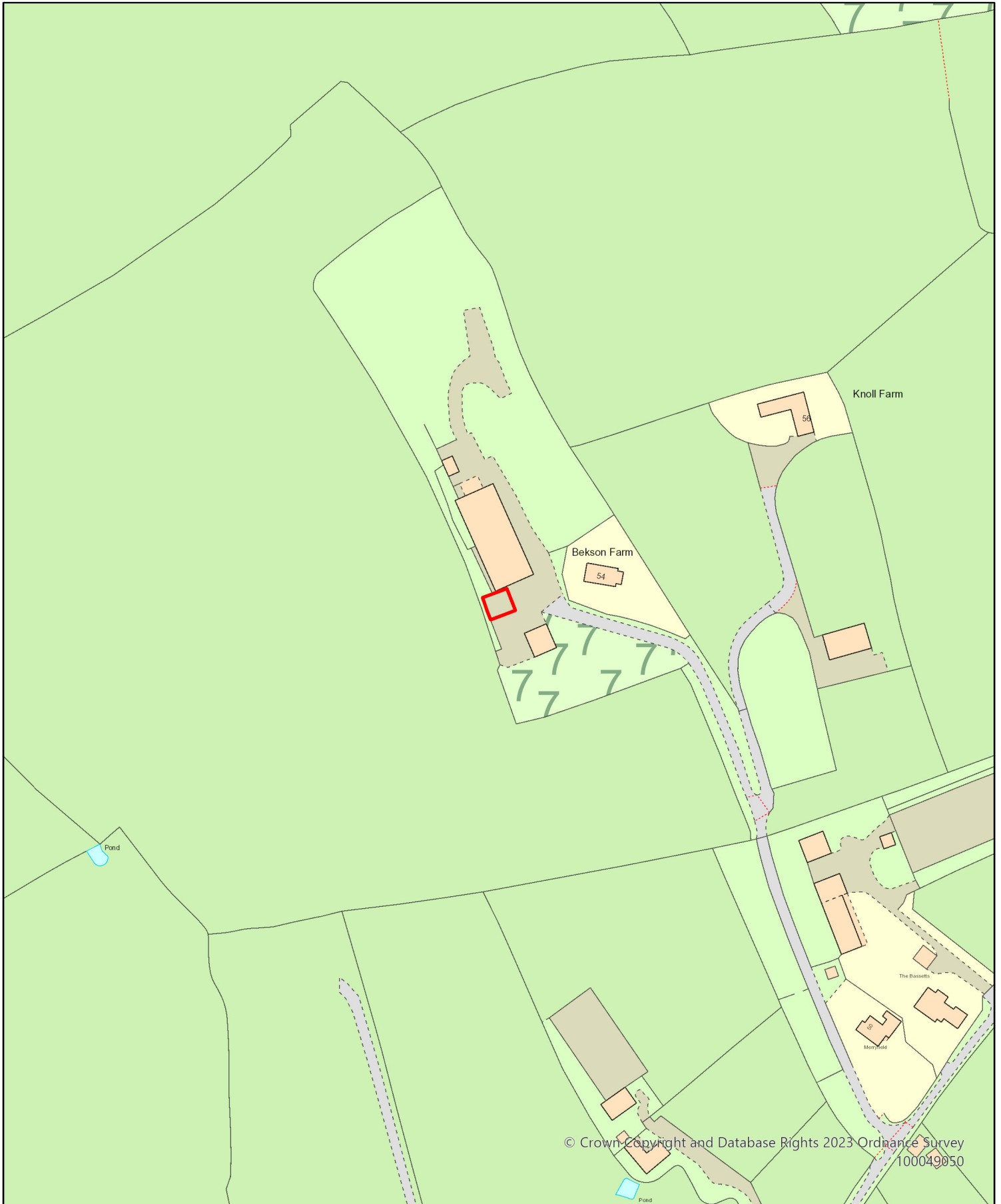
It is also not necessary or reasonable to require this application to solve an existing highway issue down Whaddon Lane by requiring a passing place to be introduced. This would also require the landowner consent and a suitable location to be identified. Passing places should be a matter for the Parish Council to pursue in either a Parish Plan or via the Hilperton Neighbourhood Plan process.

Impact on biodiversity:

The boiler is located on an area of hardstanding that Council aerial photographs demonstrate has been there since 2001 and would have been used in conjunction with the adjacent piggeries barn. Therefore, the introduction of the boiler would have been unlikely to cause harm to existing protected species.

There is potential for the flue smoke to cause harm to bats or birds who could use either barn for roosts or nests; but the piggeries barn is quite large and the northern section of the barn would be unlikely to receive constant direct smoke as wind tends not to blow north-easterly all that often. Additionally, bats would be active in dusk/night time hours, which would generally be the same times when the boiler would not be in operation. Therefore, it is considered that the risk to protected species is acceptable and that surveys etc are not required.

RECOMMENDATION: Approve subject to conditions



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