

AGENDA

Meeting: Western Area Planning Committee
Place: Council Chamber - Council Offices, Bradley Road, Trowbridge
Date: Wednesday 17 August 2011
Time: 6.00 pm

Please direct any enquiries on this Agenda to Marie Gondlach (Democratic Services Officer), of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 713597 or email marie.gondlach@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 Trevor Carbin	Cllr Christopher Newbury
Cllr Ernie Clark	Cllr Stephen Petty
Cllr Rod Eaton	Cllr Pip Ridout
Cllr Peter Fuller (Chairman)	Cllr Jonathon Seed
Cllr Mark Griffiths	Cllr Roy While (Vice Chairman)
Cllr John Knight	

Substitutes:

Cllr Rosemary Brown	Cllr Tom James MBE
Cllr Andrew Davis	Cllr Francis Morland
Cllr Russell Hawker	Cllr Helen Osborn
Cllr Malcolm Hewson	Cllr Fleur de Rhe-Philippe
Cllr Keith Humphries	

AGENDA

Part I

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

1. **Apologies for Absence**

2. **Minutes of the Previous Meeting** (*Pages 1 - 10*)

To approve the minutes of the last meeting held on 6 July 2011(copy attached).

3. **Declarations of Interest**

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

4. **Chairman's Announcements**

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 in person no later than 5.50pm on the day of the meeting.

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. The rules on public participation in respect of planning applications are detailed in the Council's Planning Code of Good Practice.

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 (acting on behalf of the Director of Resources) no later than 5pm on Wednesday 10 August 2011. 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. **Proposed Diversion of Part of Westbury Public Footpath No. 25 - Westbury Primary Care Centre** (Pages 11 - 32)

To consider the report of the Corporate Director for Neighbourhood and Planning copy attached.

7. **Planning Applications**

To consider and determine the following planning applications:

7.a **W1003791FUL - Erection of 6 terrace dwellings with associated car parking, enclosures and tree felling and planting** (Pages 33 - 58)

Site Location	Carpark Mill Lane Bradford On Avon Wiltshire
Development	Erection of 6 terrace dwellings with associated car parking, enclosures and tree felling and planting
Recommendation	Refusal
Division Member	Cllr Malcolm Hewson
Town / Parish Council	Bradford on Avon

7.b **W1101672ADV - Advertisement** (Pages 59 - 62)

Site Location	County Hall Bythesea Road Trowbridge Wiltshire BA14 8JN
Development	Advertisement
Recommendation	Consent
Division Member	Cllr John Knight
Town / Parish Council	Trowbridge

8. **Urgent Items**

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

Part II

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

None.

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WESTERN AREA PLANNING COMMITTEE

DRAFT MINUTES OF THE WESTERN AREA PLANNING COMMITTEE MEETING HELD ON 6 JULY 2011 IN THE COUNCIL CHAMBER - COUNCIL OFFICES, BRADLEY ROAD, TROWBRIDGE.

Present:

Cllr Trevor Carbin, Cllr Ernie Clark, Cllr Andrew Davis (Substitute), Cllr Rod Eaton, Cllr Peter Fuller (Chairman), Cllr Mark Griffiths, Cllr John Knight, Cllr Christopher Newbury, Cllr Stephen Petty and Cllr Pip Ridout

Also Present:

Cllr Francis Morland

62 Apologies for Absence

Apologies for absence were received from Councillor Jonathon Seed (substituted by Councillor Andrew Davis) and Councillor Roy While.

Councillor Pip Ridout apologised as she would have to leave the meeting at 7.00 pm.

63 Minutes of the Previous Meeting

The minutes of the meeting held on 15 June 2011 were presented.

Resolved:

To approve as a correct record and sign the minutes of the meeting held on 15 June 2011.

64 Declarations of Interest

W1001964OUT - Outline application for 307 dwellings (56 dwellings in Area 1B, 55 dwellings in Area 3A, 22 dwellings in Area 3B and 174 dwellings in Area 5C) with all matters reserved, Land North East Of Snowberry Lane And South Of Sandridge Road Melksham Wiltshire.

Councillor Stephen Petty declared a personal interest as a member of Melksham Without Parish Council but not a member of its planning committee.

Councillor Petty gave his assurance that he would consider the application with an open mind.

65 **Chairman's Announcements**

There were no Chairman's Announcements.

66 **Public Participation**

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

67 **Planning Applications**

The Committee considered the following applications:

67.a W/10/01964/OUT - Outline application for 307 dwellings (56 dwellings in Area 1B, 55 dwellings in Area 3A, 22 dwellings in Area 3B and 174 dwellings in Area 5C) with all matters reserved - Land North East Of Snowberry Lane And South Of Sandridge Road Melksham Wiltshire

Public Participation:

- Mr Stephen Bawtree, agent, spoke in support of the application.

Officers introduced the report which sought approval and in doing so drew the committee's attention to the late list, which is attached to these minutes and contained a comment from Melksham Without Parish Council.

Members of the committee sought and obtained reassurance that the Climate Change Officer was satisfied that the additional condition required would be more applicable at a Reserved Matters stage than for an outline application. The committee was also reassured that the provision of both primary and secondary education had been considered and that the Education Officer was satisfied that neither required further provision than already available.

The committee noted that the Highways Team had no objection to the development subject to the completion of a new Section 106 Agreement which would replace the previous agreement. Members of the committee urged officers to consult Melksham Without Parish and Town Councils at an early stage when drawing up the new Section 106 Agreement. Members of the committee also felt strongly that every effort should be made to ensure that dwellings on Snarlton Lane, were not unduly affected by the next phase of the development.

It was therefore

Resolved:

That the Area Development Manager be authorised to grant permission on completion of a Legal Agreement to secure the following:

- i) Affordable housing**
- ii) Public Transport contribution**
- iii) Public transport improvements including new bus stops and shelters along the distributor road and Snowberry Lane**
- iv) Highway works contribution to include a more flexible use of funds in Melksham town centre or elsewhere within Melksham to discourage traffic from using the town centre.**
- v) Compliance with the two existing s.106 agreements dated 6 August 2008 in so far as they relate to the application proposal**

For the following reason:

The proposed development conforms to the Development Plan and the conditions attached to it overcome any objections on planning grounds.

Subject to the following conditions:

1. The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. An application for the approval of all of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.

3. No development shall commence on site until details of the following matters (in respect of which approval is expressly reserved) have been submitted to, and approved in writing by, the Local Planning Authority:

- (a) The scale of the development;
- (b) The layout of the development;
- (c) The external appearance of the development;
- (d) The landscaping of the site;
- (e) The means of access to the site.

The development shall be carried out in accordance with the approved details.

REASON: The application was made for outline planning permission and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990 and Article 3(1) of the Town and Country Planning (General Development Procedure) Order 1995.

4. The number of dwellings to be constructed pursuant to this permission within Area 1B as indicated on the approved plan number CDP01 Rev L (Combined Development Plan) shall be no more than 56 dwellings.

5. The number of dwellings to be constructed pursuant to this permission within Area 3A as indicated on the approved plan number CDP01 Rev L (Combined Development Plan) shall be no more than 55 dwellings.

6. The number of dwellings to be constructed pursuant to this permission within Area 3B as indicated on the approved plan number CDP01 Rev L (Combined Development Plan) shall be no more than 22 dwellings.

7. The number of dwellings to be constructed pursuant to this permission within Area 5C as indicated on the approved plan number CDP01 Rev L (Combined Development Plan) shall be no more than 174 dwellings.

8. No hedge shall be felled, uprooted or otherwise removed before, during or after the construction period, except where removal is indicated on the approved plans or on an approved landscaping scheme, or where removal is required to construct a road, footpath or cycleway in accordance with the approved plans.

REASON: To ensure that existing hedges of value are adequately protected.
POLICY: West Wiltshire District Plan - 1st Alteration 2004 - Policy C40.

9. No development on any area of the site shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority in relation to that phase and those works shall be carried out as approved. This shall include indications of all existing trees and hedgerows on the land, and details of any to be retained.

REASON: To provide a satisfactory landscaped setting for the development.
POLICY: West Wiltshire District Plan - 1st Alteration 2004 - Policy C32

10. All planting, seeding or turfing comprised in the approved details of landscaping shall in relation to each area of the site be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development of that phase, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the

development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

REASON: To provide a satisfactory landscaped setting for the development.
POLICY: West Wiltshire District Plan - 1st Alteration 2004 - Policy C32

11. No development approved by this permission shall be commenced until a Construction Environmental Method Statement incorporating measures to protect any ecological features such as remaining hedgerows and Forest Brook is submitted to and approved in writing by the Local Planning Authority. The approved statement shall be adhered to throughout the construction period.

REASON: To prevent ecological features
Planning Policy Statement 9: Biodiversity and Geological Conservation

12. No development approved by this permission shall be commenced until a Construction Environmental Management Plan, incorporating pollution prevention measures, has been submitted to and approved in writing by the Local Planning Authority. The plan shall subsequently be implemented in accordance with the approved details and agreed timetable.

REASON: To prevent pollution of the water environment
Planning Policy Statement 25: Development and Flood Risk

13. No development approved by this permission shall commence until a scheme for water efficiency has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the agreed details.

REASON: In the interests of sustainable development and prudent use of natural resources.
Planning Policy Statement 25: Development and Flood Risk

14. No development approved by this permission shall commence until a foul and surface water drainage strategy is submitted to and approved in writing by the Local Planning Authority. The drainage scheme shall be completed in accordance with the approved details and to a timetable agreed with the Local Planning Authority.

REASON: To ensure that proper provision is made for sewerage of the site and that the development does not increase the risk of sewer flooding to downstream property.
Planning Policy Statement 25: Development and Flood Risk

15. No materials shall be burnt on site at any time on any phase of the development during the building and construction works.

REASON: In order to minimise nuisance.

POLICY: West Wiltshire District Plan - 1st Alteration - Policy C38

16. Building and construction work on the development hereby permitted shall not take place outside 07.30 hours to 18.00 hours, Monday to Friday, and 08.00 hours to 13.00 hours on Saturday, and at no time on Sundays and Bank Holidays unless the Local Planning Authority gives written approval to any variation.

REASON: To protect the amenity of the occupiers of nearby dwellings.

POLICY: West Wiltshire District Plan - 1st Alteration 2004 - Policy C36

17. No development approved by this permission shall commence until details of the management plan for the future maintenance of the balancing ponds shall be submitted to and approved in writing by the Local Planning Authority. The balancing pond shall be subsequently maintained in accordance with the approved details thereafter.

REASON: In the interests of flood prevention

Planning Policy Statement 25: Development and Flood Risk

18. The development of any particular area of the site shall not be commenced until surface water drainage works have been carried out and completed in relation to that area in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

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

POLICY: West Wiltshire District Plan - 1st Alteration - Policy U2.

19. Before any development is commenced on any area of the site, including site works or storage of any description, all trees to be retained on that area of the site must be protected. The protective fencing should be at minimum, weld mesh panels (Heras or similar) erected on a scaffold framework driven in to the ground by a minimum of 600mm. Alternatively a three-bar post and rail fence should be erected with galvanised livestock mesh attached to it. The protective fence should be erected at a minimum of 2 metres outside the canopy of each tree or hedgerow. If a group of trees are to be protected the fence should be erected a minimum of 5 metres outside the group canopy.

Within the areas so fenced off the existing ground level shall neither be raised or lowered and no materials, temporary buildings or surplus soil of any kind shall be placed or stored thereon. If trenches for services are required within the fenced off area, they shall be excavated and back-filled by hand avoiding any damage to the bark and any principal tree roots encountered shall be left unsevered. Where excavations do expose roots, should be surrounded with sharp/grit sand before replacing soil or other material in the vicinity. For further details relating to Tree in relation to construction the applicant should refer to BS 5837: 1991.

The fences shall not be removed without the consent of the local Planning Authority until the whole of the development is complete.

REASON: To ensure that existing trees of value are adequately protected.

POLICY: West Wiltshire District Plan - 1st Alteration - Policy C40.

20. No development shall take place, including any works of clearance, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall include provision for construction vehicular routes to and from the site, excluding Snarlton Lane, Melksham.

REASON: To protect the amenity of the residents on Snarlton Lane.

Informative(s):

1. An Energy Statement to be submitted to the Climate Officer detailing how relevant building regulations/CfSH targets will be met, what options have been considered and what consideration has been given to site wide energy solutions such as district heating. The statement should also provide details about the viability and deliverability of proposals.

2 Foul and surface water manhole covers should be marked to enable easy recognition; convention is red for foul and blue for surface water. This is to enable water pollution incidents to be more readily traced.

68 W/11/01201/ADV - Two removable flags, Village Green Garage Ham Green Holt Wiltshire BA14 6PX

Councillor Pip Ridout had to leave at this time.

Public Participation:

- Mr Lee Herrison spoke in objection to the application.
- Mr Robert Mizen, representing Holt Parish Council, spoke in objection to the application.

Officers introduced the report which sought advertisement consent. The committee sought and was offered reassurance that the proposed flags were of an acceptable size and that the Highway Authority had no objection.

The committee could not be satisfied that painting the poles black would be more in-keeping with the character of the area than white poles; they also felt that black poles would potentially be a safety risk as they would be less noticeable when visibility was poor (for example at dusk).

Resolved:

That advertising consent be GRANTED.

For the following reason:

The proposed development conforms to the Development Plan and there are no objections to it on planning grounds.

Subject to the following conditions:

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

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

2. The flag poles shall be white and together with the flags, shall be displayed only during the opening hours of the premises.

REASON: To protect the amenity of this part of the Holt Conservation Area.

3. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans:

Site Location Plan received on 6 April 2011

Site Location received on 31 March 2011

Existing Forecourt Plan received on 6 April 2011

Proposed Forecourt Plan received on 31 March 2011

Full Forecourt Plan Proposed received on 31 March 2011

REASON: To ensure that the development is carried out in accordance with the approved plans that have been judged to be acceptable by the local planning authority.

69 Urgent Items

There were no Urgent Items.

(Duration of meeting: 6.00 - 7.25 pm)

The Officer who has produced these minutes is Marie Gondlach (Democratic Services Officer), of Democratic Services, direct line 01225 713597, e-mail marie.gondlach@wiltshire.gov.uk

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

Wiltshire Council

Western Area Planning Committee

17 August 2011

Proposed Diversion of Part of Westbury Public Footpath No. 25 – Westbury Primary Care Centre

Purpose of Report

1. To:
 - (i) Consider and comment on an objection received to an Order, made under Section 257 and paragraph 1 of Schedule 14 of the Town and Country Planning Act 1990 and Section 53A of the Wildlife and Countryside Act 1981 proposing to divert a section of Westbury Footpath No. 25.
 - (ii) Recommend that the Order be forwarded to the Secretary of State for the Environment, Food and Rural affairs for confirmation.

Background

2. On 9 July 2010 Wiltshire Council received an application from Westbury Group Practice to build a Primary Care Centre (PCC) on land north west of Westbury Leigh Primary School, Mane Way, Westbury. Application No. W/10/02170/FUL.
3. Part of the PCC building and the disabled parking spaces coincide with the line of part of Westbury Footpath No. 25.
4. Planning permission was granted on 17 November 2010 subject to 11 conditions.
5. Condition No. 6 states:

“No development shall commence on site until details of a bus lay-by and a pedestrian/cycle crossing facility at the southern leg of the access roundabout together with visibility improvements within the public highway for pedestrians viewing vehicles approaching the roundabout from the north have been submitted to and approved in writing by the Local Planning Authority; the approved improvements shall thereafter be completed prior to the first use of the development.”
6. Condition No. 7 states:

“Any diversion of Westbury Footpath 25 shall be constructed as a 2m wide tarmac path, or to an alternative specification approved in writing by the Local Planning Authority, and the route through the site shall always be available to the public when the Primary Care Centre is open”

7. There are three 'Informatives', number three relates to the public right of way:

"The public Right of Way traversing the site must be diverted prior to commencement of any development on the site via Section 259 of the Town and Country Planning Act. The applicant should liaise with the Public Rights of Way Section to arrange this. Rights of Way officers advise the applicants to be aware that the Right of Way cannot be legally blocked off for the construction until the diversion is dealt with. It should be noted that diversions take a number of months due to legal processes involved (and the outcome can't be guaranteed) so the applicants are advised to progress this diversion very early on."
8. On 8 December 2010 Wiltshire Council received an application from Leighton Health Ltd, Station Road, Westbury, to divert part of Westbury Footpath No 25. The reason for the diversion was that it was in accordance with a condition attached to the planning permission.
9. The application sought to divert the line of Westbury Footpath No 25 at its southern junction of Mane Way from a cross field route to a path leading around the eastern perimeter of the PCC site to join the roundabout where Mane Way splits from the A3098. The new path will be two metres wide and will have a tarmac surface. There will be no stiles/gates/gaps.
10. Westbury Footpath No. 25 is currently recorded in the definitive map and statement as a public footpath leading from Penleigh Mill at the Dilton Marsh parish boundary across two fields to Mane Way (A3098). It continues on the opposite side of Mane Way, leading broadly south-west through an area of undeveloped land and through a residential development at Westbury Leigh. Rights of way in the area are shown at **Appendix 1** and photographs of Westbury Footpath No. 25 are shown at **Appendix 1A**.
11. A consultation regarding the proposed diversion was conducted between 13 January and 14 February 2011. This is a non-statutory consultation. The following were consulted:
 - Savill Bird and Axon acting for Leighton Health Ltd
 - Persimmon Homes (Wessex)
 - The Auto Cycle Union
 - Commons, Open Spaces and Footpaths Society
 - Wiltshire Bridleways Association
 - Wiltshire Cycling Touring Club
 - British Horse Society
 - Mr R Hawker, Wiltshire Councillor
 - Westbury Town Council
 - Dilton Marsh Parish Council
 - Mr Francis Morland
 - Byways and Bridleways Trust
 - Wiltshire Council Senior Rights of Way Warden
 - Sonia Heywood, Wiltshire Ramblers Representative
 - Mr B Riley
 - British Driving Society
 - Wessex Water
 - Wales and West Utilities

Scottish and Southern Electric
Virgin Media
Linesearch (includes National Grid and a number of oil and gas pipelines).

12. Consultation Responses:

- No apparatus was affected by the extinguishment. Scottish and Southern drew attention to underground LV cables on the northern boundary of Mane Way.
- The Wiltshire Council Senior Rights of Way Warden confirmed that tarmac would be a suitable surface.
- Mr Francis Morland noted that the original plans submitted showed the diversion being on the western edge of the development, and not the eastern as consulted, but did not formally respond.
- Ramblers responded saying they have no objection to the proposed diversion.

No response was received from either the local ward Member or from Westbury Town Council.

Main Considerations for the Council

13. The Town and Country Planning Act of 1990 states, in Sections 257 and 259:

“257 Footpaths and bridleways affected by development: orders by other authorities.

(1) Subject to section 259, a competent authority may by order authorise the stopping up or diversion of any footpath or bridleway if they are satisfied that it is necessary to do so in order to enable development to be carried out—

(a) in accordance with planning permission granted under Part III, or

(b) by a government department.

(2) An order under this section may, if the competent authority is satisfied that it should do so, provide—

(a) for the creation of an alternative highway for use as a replacement for the one authorised by the order to be stopped up or diverted, or for the improvement of an existing highway for such use;

(b) for authorising or requiring works to be carried out in relation to any footpath or bridleway for whose stopping up or diversion, creation or improvement provision is made by the order;

(c) for the preservation of any rights of statutory undertakers in respect of any apparatus of theirs which immediately before the date of the order is under, in, on, over, along or across any such footpath or bridleway;

(d) for requiring any person named in the order to pay, or make contributions in respect of, the cost of carrying out any such works.

(3)An order may be made under this section authorising the stopping up or diversion of a footpath or bridleway which is temporarily stopped up or diverted under any other enactment.

(4)In this section “competent authority” means—

(a)in the case of development authorised by a planning permission, the local planning authority who granted the permission or, in the case of a permission granted by the Secretary of State, who would have had power to grant it; and

(b)in the case of development carried out by a government department, the local planning authority who would have had power to grant planning permission on an application in respect of the development in question if such an application had fallen to be made.

259 Confirmation of orders made by other authorities.

(1)An order made under section 257 or 258 shall not take effect unless confirmed by the Secretary of State or unless confirmed, as an unopposed order, by the authority who made it.

(2)The Secretary of State shall not confirm any such order unless satisfied as to every matter as to which the authority making the order are required under section 257 or, as the case may be, section 258 to be satisfied.

(3)The time specified—

(a)in an order under section 257 as the time from which a footpath or bridleway is to be stopped up or diverted; or

(b)in an order under section 258 as the time from which a right of way is to be extinguished,shall not be earlier than confirmation of the order.

(4)Schedule 14 shall have effect with respect to the confirmation of orders under section 257 or 258 and the publicity for such orders after they are confirmed.”

14. The West Wiltshire District Plan 2004 at R11 in relation to Footpaths and Rights of Way states that:

“The protection, enhancement and use of the public rights of way system will be sought. Where appropriate, extensions and improvements to the network will be sought as part of the development proposals.”

15. Section 257 of the Town and Country Planning Act requires that before the Order may be confirmed either Wiltshire Council (in the case of an Order that has not attracted objections) or the Secretary of State must be satisfied that it is necessary to divert the footpath in question in order to enable development to be carried out in accordance with planning permission granted.

16. Paragraph 7.15 of Circular 1/09 (Rights of Way Circular – Guidance for Local Authorities – DEFRA) advises that the disadvantages or loss likely to arise as a result of the diversion, either to members of the public generally or to persons

whose properties adjoin or are near the existing highway, should be weighed against the advantages of the Order.

Comments on Considerations

Whether it is necessary to divert the footpath in order to enable development to be carried out

17. Part of Westbury Footpath No. 25 passes over the land where the main PCC building will be built and over the land where parking spaces for the disabled will be allocated. Development cannot commence until the path is diverted. It is therefore necessary.

The disadvantages or loss likely to arise as a result of the diversion

18. Westbury 25 is a footpath linking the built environment with the rural environment. The route north of Mane Way currently crosses fields leading to Penleigh Mill. The development of the PCC on this land undoubtedly expands the built environment and users of Westbury Footpath No. 25 will inevitably find that the rural character of the route is lessened by this development regardless of where the diversion leads.
19. The planning permission requires, as a condition (7), that the diverted route shall be constructed as a two metre wide tarmac path, making the loss of rural aspect an inevitable consequence of the planning consent.
20. The proposed diversion makes the length of Westbury Footpath No. 25 longer; however, the land is flat and access on the surfaced route will be improved for the less able and for those with buggies or pushchairs. The existing path has a stile at its junction with Mane Way and the proposed route does not; hence, access is improved for the remainder of the path which becomes more accessible for all.
21. Dropped kerbs will be provided on the diverted route as appropriate at the pedestrian/cycle crossing; the existing route does not have dropped kerbs.
22. Users wishing to use Westbury Footpath No. 25 will find it is staggered as a result of the new development (it currently crosses Mane Way in a straight line). There is a designated footway along Mane Way and users wishing to link the staggered parts may use this. The new crossing point is likely to be safer than the existing crossing of Mane Way. It is also noted that the section of Westbury Footpath No. 25 from Mane Way to Westbury Leigh (south of Mane Way) appears more heavily used (from worn tracks on the ground) than the section affected by the PCC, suggesting that not all users use the continuous route.
23. A direct route close to the line of Westbury Footpath No. 25, where it passes through the PCC, will be available during PCC opening hours, offering members of the public a direct route at those times, should they want it.
24. A short section of the end of the diversion where it meets Mane Way will be shared with PCC traffic. It is noted, however, that crossing Mane Way at this point involves slower traffic than at its current crossing point.

25. An Order diverting part of Westbury Footpath No. 25 was made and advertised in accordance with the legislation on 15 April 2011 (see **Appendix 2**).
26. An objection was received from the local representative of the Ramblers' Association on 26 April 2011 but was subsequently withdrawn on 3 May 2011.
27. An objection was received from Mr Francis Morland on 20 May 2011 and has not been withdrawn. The objection remains a duly made objection and Wiltshire Council must consider the points made and decide whether to abandon the Order or forward it to the Secretary of State for determination.

Comments on Objection

28. The grounds on which the objection is made are as follows:
 - (i) The application for the planning permission granted under Part III of the Town and Country Planning Act 1990 on which the Order is founded (ref W/10/02170/FUL) showed a proposed diversion route of Westbury Footpath No. 25 adjacent to and along the south-west boundary of the proposed development, and not as now specified.
 - (ii) The diversion route now specified between point A and point B is not convenient or commodious for existing users of Westbury Footpath No. 25 and is excessively and unnecessarily lengthy and circuitous, being in excess of three times the original length.
 - (iii) It is not essential or reasonably necessary to enable development to be carried out in accordance with the planning permission granted. The only part requiring diversion is that part affected by the two-storey development itself. No diversion is required for the remainder of the development. The purpose of the legislation is to permit development to proceed and not to "sweep the whole of the application site clear of all public rights of way to enable future development not yet permitted".
 - (iv) The A3098 at Mane Way is already an adopted highway and no good purpose is served by creating a new length of highway from point A to the roundabout within its boundaries.
 - (v) The portion of the permitted development, comprising a macadam surfaced footway along its northern boundary, was designed primarily to serve the purposes of the development and there is no advantage to anyone to make it a public footpath (unless the entire length of Westbury Footpath No. 25 is surfaced similarly).
 - (vi) It is an additional and unnecessary hazard to users of Westbury Footpath No. 25 to have to cross the main vehicular access to the permitted development between points A and B.
 - (vii) A planning application for 24 dwellings on land fronting Mane Way (ref no. W/10/03876/FUL) is awaiting determination and if permitted will

require a diversion of Westbury Footpath No. 25 south of Mane Way. The character and usefulness of Westbury Footpath No. 25 is best preserved by co-ordinating the two diversions to a route generally to the south-west to a new junction with Footpath 23 adjacent to the western extremity of the permitted PCC development (to the west of point B).

29. A copy of the full objection is attached at **Appendix 3**.

Comments on the Objection

30. Councillor Francis Morland raised the point with officers that the original submission from Leighton Healthcare had been to divert the footpath along the western boundary of the site. It is agreed that the original design statement (at 3.1) did show this and may have been presented at public meetings during May and June and at an Area Board meeting. However, the relevant plans for the planning permission do show the proposed diversion as consulted (to the north and east of the site) and it is these plans that the permission was granted upon.
31. It is further noted that it was an aspiration of the designers (3.1 Design and Access statement) that:
- “The building’s orientation and placement on the site is used to create a “private” area behind the centre for staff parking where movement of people is minimal and the building plan was developed to allow most of the clinical areas to look out over the private spaces.”*
- Clearly it would be incompatible with this aspiration to divert the public footpath along that boundary.
32. It is also noted that any proposed diversion along the western edge of the site would require the boundary fence to be repositioned and the car park reduced to put the diverted path on the applicant’s land. This part of the site has a high security style fence around it and it is not considered that walking beside it would be especially pleasant.
33. Any diversion of Westbury Footpath No. 25 to the west of its current egress onto Mane Way would involve users having to climb a steep highway bank to emerge onto, or exit from, Mane Way. The land levels to the east where the proposed diversion will terminate.
34. A highway authority has a duty, under the Highways Act, to assert and protect the right of the public to use and enjoy a highway. The Equality Act 2010 (Formerly the Disability Discrimination Act 1995) adds a further dimension by requiring that in carrying out their functions, public authorities must make reasonable adjustments to ensure that it is not impossible or unreasonably difficult for people with disabilities to benefit from those functions as others would do, or to show that there are good reasons for not doing so.
35. There is no specific reference in the Equality Act to any aspect of rights of way management and, as yet, no body of case law that can be referred to in the application of either the Equality Act or the DDA to rights of way. Nonetheless, it

is clear that authorities are required to have regard to their obligations under the Equality Act wherever changes or additions to the rights of way network are proposed and are encouraged to make improvements wherever appropriate opportunities arise.

36. The only other alternative would be to effect a very small diversion, effectively steering the path around the building and the disabled spaces. This is considered highly undesirable as the area is likely to be busy with PCC business which is unlikely to be compatible with recreational use. It would also prevent Leighton Health Care making their site secure outside opening hours, something they expressed a need to do in the original planning application. However, this route will be available during PCC opening hours.
37. The objector states that sharing the vehicular entrance of the PCC presents an additional hazard to users of Westbury Footpath No. 25. It is noted that the planning consent requires that the route through the PCC is open to the public during PCC opening hours. Hence, at times when traffic will be using the vehicular access, walkers do not have to walk that way. Only when the PCC is closed do walkers have to use the shared access which, at that time, would not be used by vehicles.
38. At point iv the objector states that the proposed footpath between point A and the roundabout is within the existing highway boundary. The s.38 Highways Act 1980 adoption plan shows that a two metre stretch leading from the roundabout past point A to footpath Westbury 54 has not been adopted as highway. Hence, the recording of this section as a public footpath is possible and preserves rights on foot. The Order Plan does require a small modification of the line to reflect this. The Secretary of State has the power to modify Wiltshire Council's Order prior to confirmation and a recommendation to make this modification would be appropriate. An Order Plan showing the required modification is attached at **Appendix 4.**

Environmental Impact of the Recommendation

39. Development of the site has been approved and it is considered that there is no additional environmental impact from the diversion of the path.

Risk Assessment

40. Although the making of an Order to divert a path under the Town and Country Planning Act 1990 is a power, and not a duty, of the Council, where that Council is a unitary authority and there is no other office (other than the Secretary of State) to whom the public may apply, a duty is implied. There are no risks associated with this diversion Order proceeding.

Financial Implications

41. The applicant will pay related costs where the Order is confirmed without objection. If objection is received and the Order is not abandoned by Wiltshire Council, it may be forwarded to the Secretary of State for determination. The applicant will not pay these additional costs which will fall to Wiltshire Council.

42. An Order so determined may be considered by written representations (no additional cost) or a public hearing (for which costs will be relatively low - £100 to £500) or at a public inquiry (for which costs may be higher if counsel is employed - £500 - £2500).

Options to Consider

43. To:
- (i) Abandon and revoke the Order
 - (ii) Forward the Order to the Secretary of State for Environment, Food and Rural Affairs with a recommendation that the Order be confirmed.

Reasons for Recommendation

44. It is considered necessary to divert Westbury Footpath No. 25 to allow development to proceed. The development includes not just a two-storey building but also the building of a car park. It is not practicable to divert the path through the site. Section 257 (1) of the Town and Country Planning Act 1990 is therefore satisfied.
45. Disadvantages or loss likely to arise as a result of the diversion, either to members of the public generally, or to persons whose properties adjoin or are near the existing highway, have been weighed against the advantages of the Order.

Recommendation

46. That the Wiltshire Council (Sheet ST 85 SE) Westbury 25 (part) Diversion Order and Definitive Map Modification Order No 22 2011 is forwarded to the Secretary of State for Environment, Food and Rural Affairs with the recommendation that the Order be confirmed with the modification to the Order Plan detailed at paragraph 38.

Mark Boden

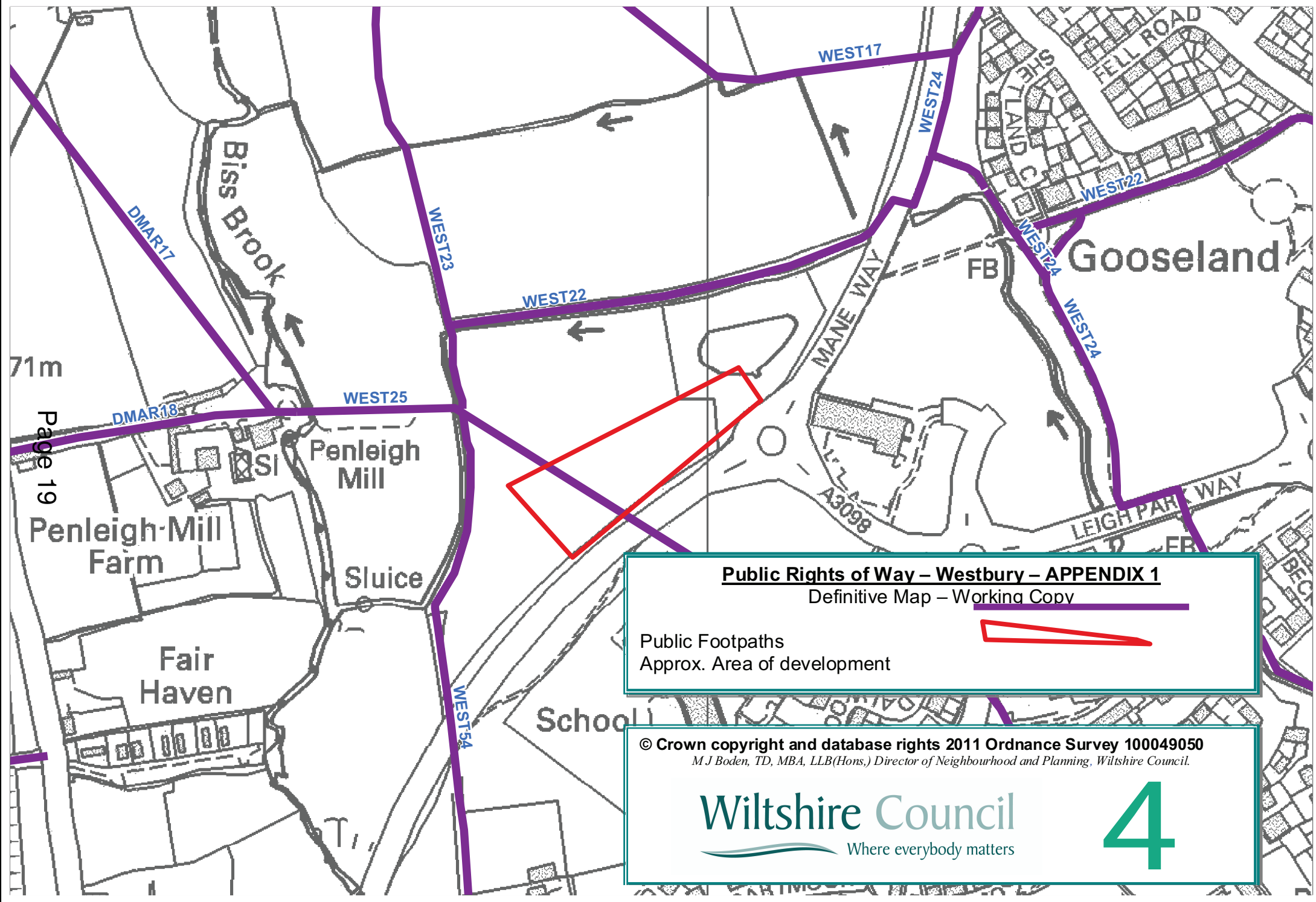
Corporate Director
Department of Neighbourhood & Planning

Report Author
Sally Madgwick
Rights of Way Officer

The following unpublished documents have been relied on in the preparation of this Report:

None

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Public Rights of Way – Westbury – APPENDIX 1
Definitive Map – Working Copy

Public Footpaths
Approx. Area of development

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Line of route to be extinguished (site of development)



Continuation of route west towards Penleigh Mill and E
unaffected by PCC development



Continuation of Westbury Footpath No. 25 south west of development
– unaffected by PCC development.

PUBLIC PATH DIVERSION AND DEFINITIVE MAP AND STATEMENT MODIFICATION ORDER

TOWN AND COUNTRY PLANNING ACT 1990 SECTION 257

WILDLIFE AND COUNTRYSIDE ACT 1981 SECTION 53(A)(2)

**WILTSHIRE COUNCIL (SHEET ST 85 SE) WESTBURY 25 (part) DIVERSION ORDER AND
DEFINITIVE MAP MODIFICATION ORDER NO 22 2011**

This order is made by Wiltshire Council under section 257 of the Town and Country Planning Act 1990 because it is satisfied that it is necessary to divert the footpath to which this order relates in order to enable development to be carried out in accordance with planning permission granted under part III of the Town and Country Planning Act 1990 namely the erection of a two storey primary care centre and associated works on land north west of Westbury Leigh Primary School, Mane Way, Westbury, Wiltshire.

This order is also made under section 53A(2) of the Wildlife and Countryside Act 1981 ("the 1981 Act") because it appears to the authority that the Warmminster and Westbury Rural District Council Area Definitive Map and Statement dated 1953 as modified under the Wildlife and Countryside Act 1981 require modification in consequence of the occurrence of an event specified in section 53(3)(a)(i) of the 1981 Act, namely, the diversion (as authorised by this Order) of a highway hitherto shown or required to be shown in the map and statement.

BY THIS ORDER:

1. The footpath over the land shown by a bold black line on the attached map and described in Part 1 of the Schedule to this order ("the schedule") shall be diverted and the Warmminster and Westbury Rural District Council Area Definitive Map and Statement dated 1953 and as modified by the Wildlife and Countryside Act 1981 shall be modified as provided below.
2. There shall be created to the reasonable satisfaction of Wiltshire Council an alternative highway for use as a replacement for the said footpath as provided in Part 2 of the Schedule and shown by bold black dashes on the attached map.
3. The diversion of the footpath shall have effect on the date on which Wiltshire Council certify that the terms of Article 2 have been complied with and upon the occurrence of that diversion the Warmminster and Westbury Rural District Council Area Definitive Map and Statement dated 1953 as modified under the Wildlife and Countryside Act 1981 shall be modified by deleting from it the path or way referred to in paragraph 1 of this order and the path or way referred to in paragraph 2 of this order shall be added to it, and the definitive statement shall be modified as described in part 3 of the Schedule.
4. Where immediately before the date on which the footpath is diverted there is apparatus under, in, on, over, along or across it belonging to statutory undertakers for the purpose of carrying on their undertaking shall continue to have the same rights in respect of the apparatus as they then had.

SCHEDULE

PART 1

Description of site of existing path or way

That length of footpath Westbury no. 25 as shown on the attached map by a continuous black line starting at point A and leading north west for a distance of approximately 70 metres to point B.

PART 2

Description of site of alternative highway

Length of footpath as shown on the attached map by a broken bold black line starting at point A and leading north east for approximately 80 metres where generally west and south west for approximately 140 metres to point B. Width 2 metres.

PART 3

Modification of Definitive Statement

Variation of particulars of path or way

Westbury 25 FOOTPATH from Penleigh Mill on the Dilton Marsh Parish boundary leading east to path no. 23 where south east to the development where north east and east to Mane Way where south west to cross Mane Way at OS grid reference ST 8595 5042 then south east to Church Lane, Westbury Leigh.

Width OS grid ref. ST 8589 5045 to ST 8595 5042 2 m

Approximate length 779 metres.

THE COMMON SEAL OF }
THE WILTSHIRE COUNCIL }
Was hereunto affixed this }
24 day of MARCH 2011 }
In the presence of: -









Handwritten signature

16260

Principal Solicitor

DIVERSION OF FOOTPATH WESTBURY 25 (pt)
ORDER PLAN

Path to be extinguished A  B 
 Path to be created A  B 
 Unaffected footpaths  

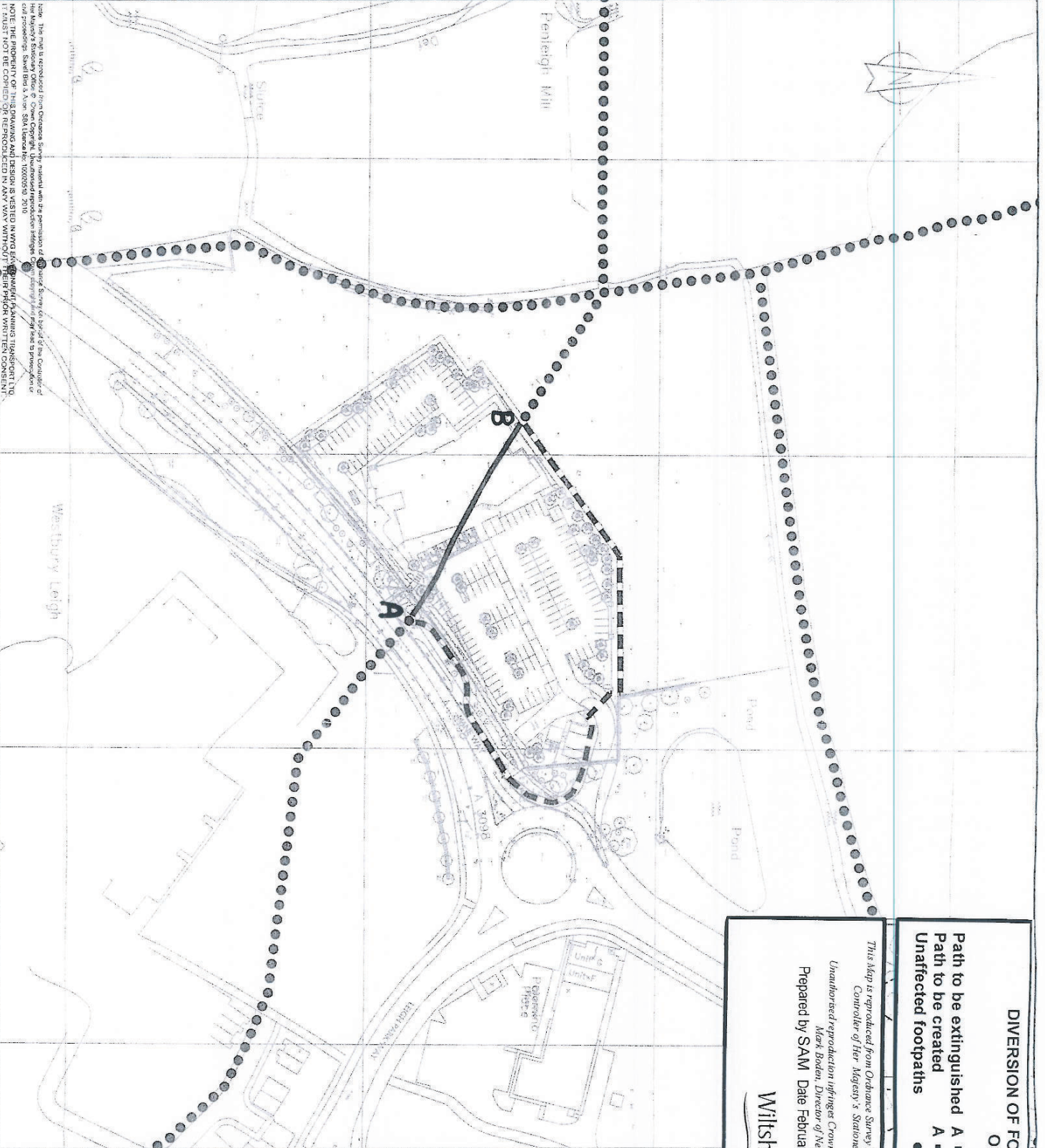
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Mark Boden, Director of Neighbourhood and Planning, Wiltshire Council

Prepared by SAM Date February 2011 Scale 1:1250 Grid Ref. A ST 8595 6042

Wiltshire Council
 Where everybody matters



REV.	DETAILS	DRAWN	CHECKED

CLIENT: Leighton Healthcare Limited

PROJECT: WESTBURY PCC

DRAWING TITLE: Diverted Footpath Arrangement (with Scheme base)


SCALE: 1:1250 at A3

DRAWN	HE	CHECKED	AW	DATE
				24.11.10

Savell Bird & Axon
 part of the WYG group

Regional Court 12 Lower Park Row Bristol BS1 5BN
 T 0117 311 8387 F 0117 325 4239 e: sba@sbax.co.uk

DRAWING NUMBER: **A063738/SK/05**



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Dear Sirs,

I wish to object to the Order made on 24 March 2011.

The grounds on which my objection is made are as follows:-

1. The application for the planning permission granted under part III of the Town and Country Planning Act 1990 on which the Order is founded (reference no. W/10/02170/FUL) showed a proposed diversion route of Westbury footpath no. 25 adjacent to and along the southwest boundary of the proposed development, and not as now specified.
2. The diversion route now specified between point A and point B is not convenient or commodious for existing users of Westbury footpath no. 25 and is excessively and unnecessarily lengthy and circuitous, being in excess of three times the length of the existing route of Westbury footpath no. 25 (viz. 70 metres from point A to point B to be deleted; 220 metres from point A to point B to be added).
3. It is not essential or reasonably necessary to enable development to be carried out in accordance with the planning permission granted. Substantially the only part of that development requiring any diversion of Westbury footpath no. 25 at present is the two storey primary care centre building itself. No diversion is essential or reasonably necessary to enable the change of use of the remainder of the application site or the laying out of the permitted site works on that land. The purpose of the statutory provisions set out in Section 257 of the Act is to enable the permitted development only, and not to sweep the whole of the application site clear of all public rights of way to enable future development not yet permitted.
4. The A3098 at Mane Way is already an adopted and publicly-maintained highway, and no good purpose is served by creating a new length of highway starting at point A and leading northeast for approximately 80 metres (to the roundabout) within its existing boundaries.
5. The portion of the permitted development comprising a macadam-surfaced footway along its northern boundary was designed primarily to serve the purposes of that development, and there is no additional benefit to anyone in changing its status to a public footpath (unless the whole of the rest of the route of Westbury footpath no. 25 westwards to the parish boundary and the connecting footpath through to Penleigh Mill within the parish of Dilton Marsh are similarly re-built to the same specification; in any event, the whole of the route of Westbury footpath no. 25 west of point B is archaeologically sensitive).
6. It is an additional and unnecessary hazard to users of Westbury footpath no. 25 to have to cross the main vehicular access to the permitted development between point A and point B.
7. A planning application by Persimmon Homes (Wessex) Ltd. for 24 dwellings on the land fronting Mane Way southeast of point A (reference no. W/10/03876/FUL) is awaiting determination and, if permitted, is likely to be followed by a further Order pursuant to Section 257 of the Act to divert Westbury footpath no. 25 to enable that development too. The character and usefulness of Westbury footpath no. 25 for its present and future users can best be preserved and safeguarded by co-ordinating both diversions of it generally to the southwest of its existing route to a new junction with Westbury footpath no. 23 adjacent to the western extremity of the permitted primary care centre development (to the southwest of point B).
8. For the avoidance of doubt, all of these grounds also apply to the proposed changes to the Warminster and Westbury Rural District Council Area Definitive Map and Statement dated 1953.




I reserve the right to amend or add to these grounds in due course.

Yours faithfully,

Francis Morland

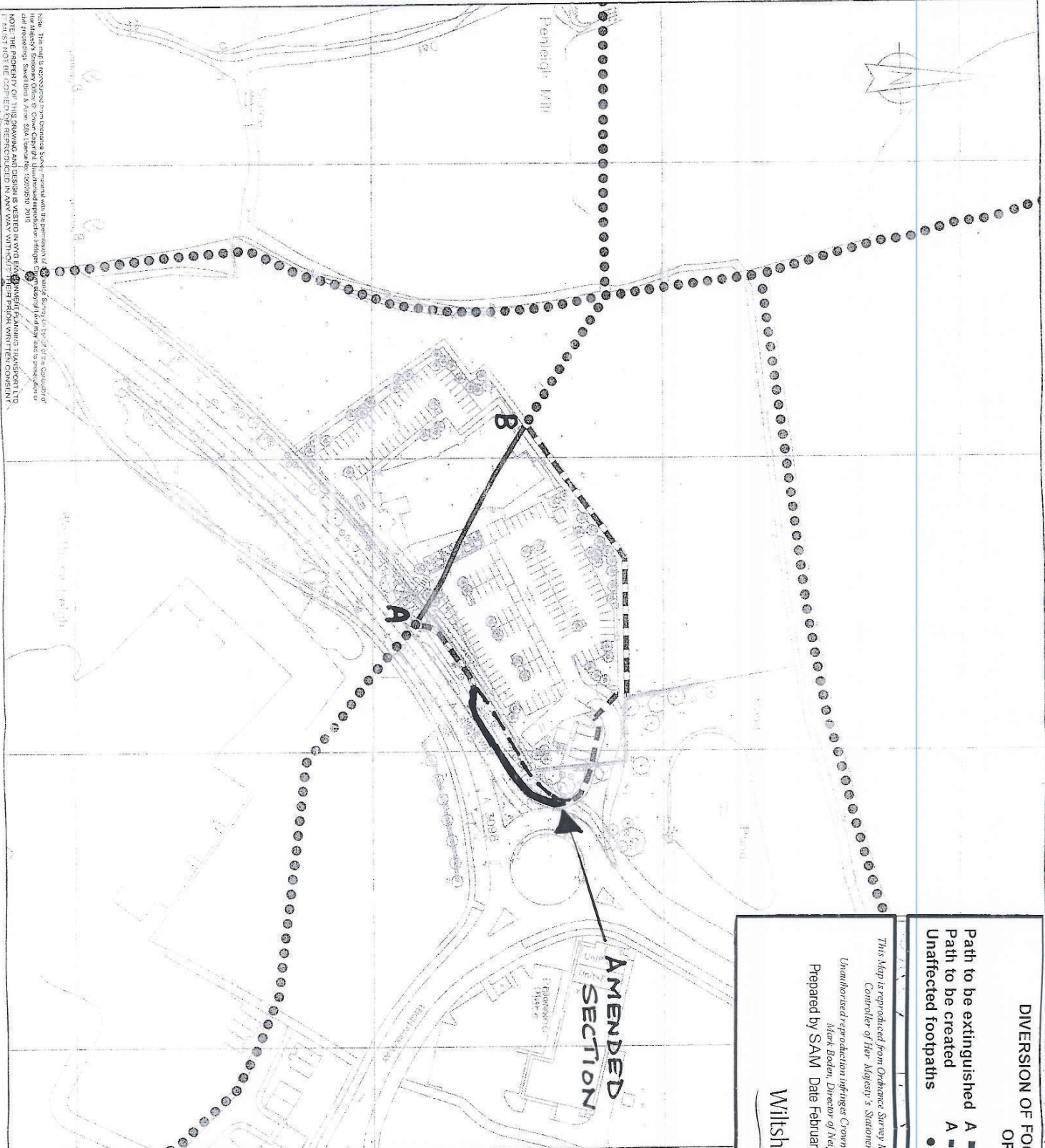
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DIVERSION OF FOOTPATH WESTBURY 25 (pt)
ORDER PLAN

Path to be extinguished A 
 Path to be created B 
 Unaffected footpaths 

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 Mark Bodin, Director of Neighbourhood and Planning, Wiltshire Council
 Prepared by SAM Date February 2011 Scale 1:1250 Grid Ref: A ST 8595 5042



REV	DETAILS	DRAWN	CHECKED	DATE

CLIENT
Leighton Healthcare Limited

PROJECT
WESTBURY PCC

DRAWING TITLE
Diverted Footpath Arrangement (with Scheme base)

SCALE
1:1250 at A3

DATE
HE AW 24.11.10

Savell Bird & Axon
part of the wyg group

RODNEY COURT 12 Lower Park Road Bristol BS1 5BN
 T: 0117 311 6187 F: 0117 925 4235 E: SBAS@SBA.CO.UK

A063738/SK/05

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REPORT TO THE WESTERN AREA PLANNING COMMITTEE

Date of Meeting	17.08.2011		
Application Number	W/10/03791/FUL		
Site Address	Carpark Mill Lane Bradford On Avon Wiltshire		
Proposal	Erection of 6 terrace dwellings with associated car parking, enclosures and tree felling and planting		
Applicant	Fortdene Limited		
Town/Parish Council	Bradford On Avon		
Electoral Division	Bradford On Avon South	Unitary Member:	Malcolm Hewson
Grid Ref	382768 160979		
Type of application	Full Plan		
Case Officer	Mr Kenny Green	01225 770344 Ext 15174 kenny.green@wiltshire.gov.uk	

Reason for the application being considered by Committee

Councillor Hewson requested that this item be determined by Committee due to the following:

The proposed development makes no positive contribution to the long-term preservation and enhancement of the Conservation Area.

The proposal represents an overdevelopment of the site in a use and form that have a detrimental effect on its immediate surroundings and the town centre.

The proposal does not provide for the proper development of this site as assessed with regard to Policies HE 6.1, HE7.5, HE9.5 and HE10 of Planning Policy Statement 5 and District Plan Policy C18.

The form of development is inappropriate in terms of bulk, scale and visual intrusion. It also has an adverse effect on the views from Mill Lane and the setting of the Manvers House (grade II*) and The Hall (grade I) and its Registered Park and Garden.

During a telephone conversation with Cllr Hewson with the case officer on 22 July, the ward member confirmed his wish for the application to be reported to committee to allow the elected members to determine all the material considerations relative to this application.

1. Purpose of Report

To consider the above application and to recommend that planning permission be refused.

Neighbourhood Responses

27 letters of representation received

Parish/Town Council Response

Objects to this application for the reasons cited within section 7 below.

It should also be duly noted that the Town Council reaffirmed its objection following the submission of revised plans.

2. Main Issues

The main issues to consider are:

Principle of Further Residential Development Within Town Policy Limits
Impact on the Conservation Area / Heritage Assets
Loss of Car Parking / On Site Servicing / Environmental Considerations
Landscape / Loss of Trees (including TPO'D tree)
Impact on surroundings / residential amenity / privacy
Archaeological and Ecological Issues
Education Contributions

3. Site Description

The application site measures about 0.12ha, located within Bradford on Avon's Conservation Area and the defined Commercial Area Boundary. The adopted District Plan identifies this site (along with the former Kingston Mills site), for new housing allocations and urban mixed use brownfield allocation under Policy H4A. The site is also identified as an area of archaeological interest.

The car park site is positioned to the immediate west of Mill Lane, a one-way carriageway which has an approximate 1 metre wide footway, introduced by the Kingston Mills developer and prohibits on-street parking. Historically, the land subject to this application was associated to Manvers House, a Grade II* Listed Building, located along Kingston Road, but it has been used for car parking for many decades.

The site is predominantly laid as tarmac hardstanding and is walled on four sides. The northern boundary is marked by a high (5.8 metres) brick wall that separates the car park and residential gardens associated to properties located along Silver Street. At the eastern end, the stone wall drops down in height to about 3 metres and has an existing 6 metre wide vehicular entrance served off Mill Lane, which has an automatic barrier. Further to the east, and about 100 metres from the application site, the 17th Century built Grade I listed property known as The Hall is positioned within its protected historic park and garden landscape.

At the foot of Mill Lane, on the far side of Kingston Road is Kingston House, another substantial listed property dating from the 18th Century, which was directly related to the development of manufacturing on the Kingston Mill site.

Manvers House and its rear yard/car park are situated to the immediate south. A 4.3 metre high wall defines the southern boundary. A flight of steep, narrow steps link the application site with Manvers House. Four well established trees are located along the southern and south western corner of the car park site. Since these trees are located within the Conservation Area, they are protected. The large poplar tree located in the SW corner of the site is TPO'd in its own right.

To the west, a solid stone wall measuring about 2.7 metres encloses the site and separates it from rear gardens associated to Silver Street properties, service yards and outbuildings.

In recognition of anomalous information contained within the applicant's submitted statements, the applicant's agent advised on 14 January that the Mill Lane car park has 42 spaces in total. 15 have latterly been used by local businesses, 10 by the Railway Engineering Company, the previous tenant of Manvers House. A further 10 spaces are used by Linden Homes, in association with the redevelopment of the Kingston Mills site. 7 spaces are considered vacant. Members are advised that following receipt of several third party representations covering loss of residents parking, the case officer requested on 26 January that the applicant obtains written confirmation from the owner of the site to clarify lease arrangements/entitlements. It is disappointing to note that no such confirmation was submitted.

4. Relevant Planning History

97/01455/CON - Removal of 2 metres of wall and widen entrance to car park - Withdrawn - 17.02.1998

97/01665/FUL - Widen entrance and reconstruction of stone pillar and security barrier - Withdrawn - 17.02.1998

08/00917/FUL - Conversion of Manvers House to form 6 dwellings and one office suite (Class B1) and erection of 7 new build dwellings and associated works - Refused 10.09.2008

08/00918/FUL - Conversion of Manvers House to form 6 dwellings and one office suite (Class B1) and erection of 7 new build dwellings and associated works - Refused 10.09.2008

W/10/03792/CAC - Partial demolition of boundary wall - Withdrawn 17.05.2011

5. Proposal

Under this application full planning permission is sought for the erection of 6 no. dwelling houses to be formed as part of a 2.5 storey, 10 metre high terraced block to be orientated east-west across the central part of the site. The attic space accommodation would be served by wall head dormers. The exterior walls of the proposed terrace would be constructed using a mix of rubble Cotswold limestone, bath stone and lime render, with sandstone and stone lintels and cills. Fenestration finishes would be of timber joinery in oak or painted. Bespoke porches with lead canopies are also proposed. The terraced property would have clay pantile and natural slate roofs.

At the western end of the terrace, the roofscape serving two of the six units has been deliberately kept different in form and height than the rest of the terrace. The applicant's agent submitted this as a material revision to the initial proposals (which included the deletion of the detached residential studio unit) in an attempt to address the respective concerns raised by the case officer and conservation officer. Amendments were also made to the scheme to address tree and landscape and highways concerns.

During the course of the application, revised plans were also submitted showing the eaves and chimneys being amended, as well as making adjustments made to the car ports, cycle and bin stores proposed on site and the kerb line. As a consequence of the revisions, 10 car parking spaces and the cycle storage facility would serve the 6 residential units.

Following lengthy negotiations and meetings with the applicant's agent, a Unilateral Undertaking was issued on 12 July covering the calculated necessary education contributions pursuant to this development. Should permission be granted for this 6-house development, the owner of the site is legally bound to pay an index linked contribution to the Council to the sum of £25,196 to be applied for the provision of two primary school places.

In support of the application, the applicants agent has submitted a Planning Statement, a Design and Access Statement, an Arboricultural Impact Assessment, a Transport Assessment including vehicle swept path analysis along with 3D visual and sketch contextual photographs and drawings.

6. Planning Policy

Government Guidance

PPS1 - Delivering Sustainable Development

PPS3 - Housing

PPS4 - Planning for Sustainable Economic Development

PPS5 - Planning for the Historic Environment

PPS6 - Planning for Town Centres

PPS9 - Biodiversity and Geological Conservation

PPG13 Transport

PPG24 Planning and Noise

Wiltshire and Swindon Structure Plan
DP1 - Priorities for Sustainable Development
DP2 - Infrastructure
DP4 - Housing and Employment Proposals
DP5 - Town Centres, District Centres and Employment Areas
DP7 - Housing in Towns and Main Settlements
DP8 - Affordable Housing
DP9 - Reuse of Land and Buildings
T1 - Integrated Transport Plans
T3 - Public Passenger Transport
T5 - Cycling and Walking
T11 - The Strategic Transport Network
HE7 - Conservation Areas and Listed Buildings

West Wiltshire District Plan - 1st Alteration
C6a - Landscape Features
C15 - Archaeological Assessment
C17 - Conservation Areas
C18 - New Development in Conservation Areas
C20 - Change of use in Conservation Areas
C21 - Planning Permission in Conservation Areas
C23 - Street Scene
C30 - Skylines
C31a Design
C32 - Landscaping
C35 - Light Pollution
C38 - Nuisance
C40 - Tree Planting
H1 - Further Housing Development Within Towns
H2 - Affordable Housing Within Towns and Villages
H3 - Urban Brownfield Allocations
H4 - Urban Mixed Use Brownfield Allocations
H24 - New Housing Design
T10 - Car Parking
TC2 - Traffic Management and Pedestrian Priority
U1a - Foul Water Disposal
U2 - Surface Water Disposal
S1 - Education
SP5 Secondary Retail Frontages
I1 - Implementation

Supplementary Planning Guidance

Kingston Mills Development Brief
Residential Design Guide
Design Guidance

7 Consultations

Bradford on Avon Town Council - Objects.

The Design and Access Statement explains the Architect's approach to the scheme in considerable detail but fails to put the proposal in the wider context.

The important issues that need consideration are:

the original Brief for the Kingston Mill site and the finally approved scheme
sustainable development
the potential contribution to the overall conservation of the town

This site should not be considered in isolation from decisions that have already been made in relation to the Kingston Mill development. Comments made in respect to application 08/00917/FUL are also relevant. The Mill Lane car park remains in the ownership of Avon plc. It is not unreasonable to link the two schemes within the overall employment considerations.

Car parking on the Kingston Mill site is below standard and that some oversell is inevitable. There is an opportunity therefore to address this in relation to the Mill Lane car park site.

The redevelopment of this site must preserve and enhance the Bradford on Avon Conservation Area which needs to be considered in a much wider context than purely visual. Conservation Character is made up of a number of elements, of which appearance is only one part. For many years the conservation and long term viability of the listed buildings on the south side of Silver Street has been made difficult because of the lack of convenient access, and in particular pedestrian safety. Ground levels in the area need to be assessed and development of the car park in isolation is premature pending a thorough investigation of the possibilities of providing links with the surrounding buildings and permeability through the site.

The car park at present doesn't contribute to the visual character of the town but it does make a valuable functional contribution. There is however significant potential for improvement on both counts. This can only be achieved if the development creates interesting and attractive spaces that can be integrated with the town centre and in so doing, preserves and enhances the Conservation Area. The proposal for 100% residential development does not make a positive contribution, either in visual or functional terms.

District Plan Policy C18 states that proposals for new development in a Conservation Area will be permitted only if the set criterion is met.

Of more significance are the policies in Planning Policy Statement 5, regarding the determination of applications that affect Designated Heritage Assets. PPS 5 Policy HE6.1 requires an assessment to be made of the significance of the site being considered for development. This includes the examination of the setting. The PPS also states that there are a number of potential heritage benefits that could weigh in favour of a proposed scheme, these being:

1. It sustains or enhances the significance of a heritage asset and the contribution of its setting.
2. It reduces or removes risks to a heritage asset.
3. It secures the optimum viable use of a heritage asset in support of its long-term conservation.
4. It makes a positive contribution to economic vitality and sustainable communities.
5. It is an appropriate design for its context and makes a positive contribution to the appearance, character, quality and local distinctiveness of the historic environment.
6. It better reveals the significance of a heritage asset and therefore enhances our enjoyment of it and the sense of place.

Additional policies within PPS 5 and the accompanying guidance provide further information on how development proposals should be assessed. Policies HE7.5, HE9.5 and HE10 require attention to the extent to which the design of new development contributes positively to the character, distinctiveness and significance of the historic environment. A successful scheme will be one whose design has taken account of the following characteristics of the surroundings, where appropriate:

1. The significance of nearby assets and the contribution of their setting.
2. The general character and distinctiveness of the local buildings, spaces, public realm and the landscape.
3. Landmarks and other features that are key to a sense of place.
4. The diversity or uniformity in style, construction, materials, detailing, decoration and period of existing buildings and spaces.
5. The topography.
6. Views into and from the site and its surroundings.
7. Green landscaping.

8. The current and historic uses in the area and the urban grain.

Some or all of these factors may influence the scale, height, massing, alignment, materials and proposed use in any successful design.

In assessing all major applications the primary planning considerations are currently focused on the need for sustainable development and on achieving an acceptable balance between uses. Sustainable development is stated as the "core principle" underpinning planning. The planning system has a key role of facilitating and promoting sustainable and inclusive patterns of development, including the creation of vital and viable town centres, which is a key tenet of PPS 6 - Planning for Town Centres.

Any development proposal on the car park needs to address the long-term impact on nearby listed buildings because this is the last remaining opportunity to do so. It is therefore reasonable to argue that a properly integrated and permeable development or use of the car park is essential if the character of the Conservation Area and if the listed buildings in this part of the town are to be properly protected. At present, the car parking used by businesses and residents in the immediate locality provides an essential facility to ensure that buildings in Silver Street and Woolley Street are fully utilised and properly maintained.

The conclusion to be drawn from the matters outlined above is that the proposed development for six terrace houses fails in planning terms to contribute to sustainable development. In addition it does not comply with PPS 5 Policies that seek to protect the long-term conservation of the town and is therefore unacceptable in principle.

In addition to the objections in principle, there are also design issues regarding the bulk, scale and form of the proposed scheme. The Design and Access Statement makes particular reference to "the tradition of terrace housing in Bradford on Avon" as a justification for a two-storey plus attic development on this site. This however ignores the fact that terraces in Bradford on Avon are a key feature of the southern hillsides, and some of the surrounding areas, but are not typical of development in Silver Street and Woolley Street. Here buildings sit along the road frontages or in courtyards behind.

The overall scale and form of the proposed terrace block represents an over-development of the site. There is at present an attractive view of the hillsides from Mill Lane across the car park and this will be entirely lost if a tall terrace block is built along the contour as suggested. The block will significantly impact on nearby buildings including affecting the setting of the grade II* Manvers House. It may also have an impact on the Hall gardens. The planning application includes considerable design detail. In particular, there is reference to a proposal for the construction of balconies to the south elevation. Balconies are an entirely alien feature within the historic core of the town, and especially so on buildings that are based on historic precedents.

The proposed development makes no positive contribution to the long-term preservation and enhancement of the Conservation Area. The proposal represents an overdevelopment of the site in a use and form that have a detrimental effect on its immediate surroundings and the town centre. The proposal does not provide for the proper development of this site as assessed with regard to Policies HE 6.1, HE7.5, HE9.5 and HE10 of Planning Policy Statement 5 and District Plan Policy C18.

The form of development is inappropriate in terms of bulk, scale and visual intrusion. It also has an adverse effect on the views from Mill Lane and the setting of the Manvers House (grade II*) and The Hall (grade I) and its Registered Park and Garden.

Following the submission of revised proposals, the Town Council provided the following comments:

The revised proposals is accompanied by a four-page letter from the Architect in which he seeks to justify the height of the proposed terrace and its potentially adverse effect on neighbouring properties. This justification is entirely based on relative levels and distances between properties (especially windows) but makes no reference: to the bulk and form of the development. In this context it is not the distance between properties or the degree of overlooking that is the issue, it is the excessive height

and inappropriate form of the terrace especially when viewed from nearby locations such as Kingston Road and Mill lane.

Fundamentally the application is the same as that submitted in December 2010 and the scheme remains unacceptable.

The development of the site should not be considered in isolation from decisions already made in relation to the Kingston Mill project, historically the Mill Lane car park formed part of a single planning unit including all of the land previously owned and occupied by Avon. It should therefore be seen as a site in employment use or closely related to that use by providing essential car parking. The West Wiltshire District Plan contains policies to protect employment uses and this is now emphasised in the emerging Core Strategy. Specifically the Core Strategy Consultation Document makes particular reference to the need to protect all employment sites in the town and loss of the employment use should be included in amended reasons for refusal.

The historic use of the car park is an integral part of the former employment site. The District Plan and the emerging Core Strategy seek to maintain existing employment sites and in recent times the car park has been used to support business activity. It is therefore an important element in the protection of economic activity in the town. Such activity is essential to maintain the character of the Conservation Area.

Highways Authority - No objections.

The access, layout and parking provision are acceptable, because a discounted parking provision has been agreed at this site. A condition should be attached to any permission attached preventing the enclosure of the car ports to ensure that they do not become used for storage purposes.

During the course of the planning process, the highways team requested the removal of the footway widening either side of the access, and it is noted that this has been addressed within the revised proposals.

It is also noted that the studio dwelling has been removed from the scheme, following discussions with the applicant's agent. In connection with this, one parking space has also been removed and replaced with a new bin store, which in turn provides a better cycle storage facility. The proposed parking provision on site is considered sufficient in this central town location and any loss of parking from the existing car park facility, is parking that has only become available since the industrial use of the former Kingston Mill site became redundant.

On the basis of the above, the proposals are acceptable and as such, I recommend that no Highway objection is raised, subject to conditions and an informative being attached to any permission granted.

Council's Conservation Officer - Objects.

The site and its context:

There is relevant planning history on this site and therefore the current scheme must be put in that context. The 2008 scheme for redevelopment of the car park also included the refurbishment and change of use of Manvers House. This was refused for reasons relating to Manvers House and not relating to the development of the car park. Consequently, the principle of developing on the car park has been previously deemed to be acceptable.

In addition, the Bradford on Avon Conservation Area Character Assessment does not identify the car park as an important open space, it is simply identified as a car park. Therefore, the principle of developing this site raises no objection.

However, notwithstanding the acceptance of development in principle, the current proposals do raise significant conservation issues which must be addressed.

The site is within the Bradford on Avon Conservation Area and any development of the site will affect the settings of Grade II, II* and Grade I listed buildings.

The car park is a hard space bounded by a mixture of stone and brick walling. The area has the appearance of an almost square courtyard and this forms part of its character within the Conservation Area.

Removal of sections of wall along Mill Lane:

The sections of the stone boundary wall along Mill Lane to be removed would be a regrettable loss, however under current legislation these sections could be removed without the need for Conservation Area Consent or Planning Permission and therefore I cannot find any objection to the proposed alterations.

The Proposals:

The Conservation Officer initially argued that the proposed terrace of six properties would not reflect the characteristics of the site in that the terrace would bisect the square courtyard and remove all sense of that courtyard space. The interpretation of the space would be fundamentally altered as there would be no views through from the northern side to the southern and this would be to the detriment of its character within the Conservation Area. Following further discussions and consideration, the concerns raised over the interpretation of the space were withdrawn. The revised development would retain a sense of a courtyard, albeit in a different shape, but a courtyard would remain nevertheless.

The car port designs are now acceptable and therefore there is no objection to those structures. The use of a flat sedum roofs is a good solution in this location.

The scale of the development would be a three storey terrace with steeply pitched roofs. The third storey would be partially within the roof space but the floor level would be a metre below the eaves and therefore the block would appear as a three storey building.

This site is flat although it is on a hill where a difference in ridge heights would be expected between the buildings at the top and those at the base. However, this proposed block would not fit in with that rhythm of descending ridge heights and it would appear too tall for the area. The terrace would dominate the surrounding areas as the height of the proposed terrace would not be in keeping with the surrounding buildings, even given the topography. This is shown quite clearly on the Site Sections plan (Dwg. No. 10056(L)022 Rev B). The ridge of the proposed terrace would be 1.5 metres above the height of the two storey rear extension of No. 18 Silver Street. The ridge heights should be stepping down in height as the hill descends, not rising back up to the degree proposed.

Elevation Plan (Dwg. No. 10056(L)018 Rev F) shows units 1 and 2 redesigned to appear more as cottages. These are still large buildings of a similar scale to the rest of the proposed terrace. The change in roof type has removed some of the bulk from the top storey, and the ultimate height has only been reduced by 500mm (excluding chimney). The redesign of the end two units would soften the impact of the terrace from the long views to the site. However, the dominant effect of a large building would still remain in views from Mill Lane and Kingston Road.

The architect has made a point over drawing a line from the ridge of the Silver Street properties across to the top of Manvers House on Kingston Road in order to give the ideal height of buildings on this site. This is still not adequately shown on the plans (Dwg. No. 10056(L)022 Rev C section DD) - the most useful section to demonstrate this - does not include Manvers House at all). The line that is being referred to, at best inference from the current plans, is quite a shallow angle compared to the angle of Mill Lane.

Manvers House is a large and impressive Georgian Grade II* listed building that has a high status. The buildings on Silver Street at the top of Mill Lane are domestic buildings that have a lower status. I would argue that in trying to create further residential dwellings on the Mill Lane site, the ridge heights should correspond the fall of Mill Lane, rather than a notional line drawn between buildings of different statuses. It would be expected that Manvers House would be proportionately taller than the lower status buildings in the surrounding area, due to its own high status. Therefore using the top of

Manvers House as a benchmark to inform the height of a lower status building is not accurate. The proposed terrace remains too tall for this site.

In conclusion, the scale of the proposed terrace would result in harm to the special character and appearance of the Conservation Area and to the settings of surrounding listed buildings and therefore would be contrary to criterion B of Policy C18 of the LDF and Policies HE7.4 and 7.5 of PPS5.

Council's Tree and Landscape Officer - No objections.

Following the submission of revised plans, the previously raised concerns about tree loss/replacement planting and landscape issues have been addressed and there is therefore, no arboricultural or landscape reason to refuse this application, subject to conditions.

Council's Economic Development Officer - Objects.

Bradford on Avon is a town that has lost most of its employment sites to residential use in recent years which has increased out commuting. I am therefore in support of the vision that the Bradford on Avon Development Trust has that the area surrounding the Mill Lane Car Park could be unlocked for employment use with better access being provided for the vacant units on Silver Street and the potential to create additional workspace surrounding the car park. In this vision, the car park would remain to serve the northern side of the town where there is very little parking space available. I therefore am opposed to the redevelopment of this car park for residential use.

Council's Environmental Health - No objections.

English Heritage - This application follows the refusal of previous proposals in the summer of 2008. English Heritage raised no objection in principle to the application, but drew attention to the relationship between new build dwellings and the residential conversion of Manvers House which was then included in the proposals.

Manvers House and its immediate car park is now excluded from the current proposals, but there is a need to ensure that its sustainable and viable future, whatever that may be, is not compromised by the current scheme.

We have had no involvement in any pre-application negotiations, and the timing of the application's submission over the Christmas period made it difficult for us to give more detailed consideration to the issues posed by the proposals in the time available. We have no details of the previous application remaining in our possession and they are not accessible via your authority's website. We cannot therefore make a comparison of the new build proposals as they are now relative to what was proposed previously and must leave such an assessment to the discretion and judgement of your authority.

In carrying out such an assessment we would draw attention to the provisions of PPS5 which have come into statutory force since the previous application was considered, and the need to provide evidence on the significance of the heritage assets likely to be affected, their importance, the degree of impact which will result, and the public benefits which might justify such proposals or provide adequate mitigation.

In this case, the contribution made by the site to the special interest of the Grade II* listed Manvers House, in its spatial relationship as well as in its openness, the role of the site in defining the historic character and appearance of the conservation area, and the setting of the Grade I listed Hall, all need to be considered. While the design and footprint of the main block may accord with prevailing townscape character, we would encourage your authority to assure itself that the development's scale will not be unduly dominant. We appreciate that the site may be part of a "brownfield" area identified for development within extant planning policy, but this does not obviate the need for any set of specific proposals to justify their acceptability in compliance with statutory planning policy guidance.

Recommendation:

We would urge you to address the above issues, and recommend that the application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice. It is not necessary for us to be consulted again.

Council's Drainage Engineer - As the site is located within a sewered area for both storm and foul drainage, it would be up to Wessex Water to accept and agree to additional connection flows from the site.

Council's Housing Services - No affordable Housing contribution is necessary for this proposal.

Council Education Officer - No objections following the issuing of a Unilateral Undertaking on 12 July 2011 which requires the owner of the site to provide an index linked education contribution prior to the commencement of any development.

This development generates a requirement for 2 primary places at £12257 each. The proposals also generate a need for one additional secondary school place, however, it has been agreed not to pursue the one secondary place. As far as secondary school contributions are concerned, pupil numbers and school capacities do change over time and so s.106 requests must vary accordingly.

In relation to primary school contributions, I can confirm that the current numbers of pupils, and pre-school children will mean that both primary schools, serving the area will be full in the coming years. There is, therefore, a clear need for additional accommodation in relation to any new housing, irrespective of the size of the development.

Following discussions with the applicant's agent, even after the detached studio unit was deleted from the scheme, the requirements listed above remain relevant. If the studio unit was the one bed property, then its deletion would have no impact on our assessment as we exclude one bed units anyway, (on the basis that they are unlikely to be occupied by a family). If it was one of the larger properties then its deletion reduces the pupil product very marginally, but not enough to reduce the actual number of places required i.e. 1.55 at primary still rounds up to 2 as before, and 1.1 at secondary still rounds down to 1, as previously.

Council's Archaeologist - The site was evaluated in 2007 ahead of an expected application and no significant archaeology was recovered and no further action is recommended.

Council's Ecologist - No objections.

Wessex Water - The development is located within a sewered area, with foul and surface water sewers. The developer has proposed to dispose of surface water to mains sewer, we would not accept storm flow from the site to the fould system as it would cause major issues with overflows etc downstream. If there is any positive drainage from the existing site we would need to see drawings of the existing.

If the planning goes ahead we would raise an objection/seek a condition that storm flows do not go to the foul system as there are alternative options. With respect to water supply, there are water mains within the vicinity of the proposal. Again, connection can be agreed at the design stage.

It is recommended that the developer should agree with Wessex Water, prior to the commencement of any works on site, a point of connection onto Wessex systems.

The developer should also be aware of the importance of checking with Wessex Water to ascertain whether there may be any uncharted sewers or water mains within (or very near to) the site. If any such apparatus exists, applicants should plot the exact position on the design site layout to assess the implications.

Spatial Planning Officer - The current strategic and local planning policy for Bradford on Avon is provided by the Wiltshire and Swindon Structure Plan 2016 and the West Wiltshire District Plan First Alteration (June 2004). The majority of the policies in the Structure Plan and District Plan have been

saved until further notice. District Plan Policy H4A (urban mixed use brownfield allocations) is particularly relevant to this proposal. Policies C15 (archaeological assessment), C17 (conservation areas), C18 (new development in conservation areas), H1 (future housing development within towns) and SP5 (secondary retail frontages) also apply.

The Wiltshire 2026 consultation was undertaken between October and December 2009 to inform the development of the Wiltshire Core Strategy. Relevant material from the consultation document and responses to this are discussed below.

Background:

The site is located within the Kingston Mills urban mixed use brownfield allocation, as identified by policy H4A of the District Plan. The site is within a Conservation Area, and is within an Area of Archaeological Interest. The site is also within the Commercial Area boundary.

There was a previous planning application at this site in 2008, with proposals including the conversion of offices at Manvers House into residential dwellings and the provision of new build residential dwellings on the Mill Lane car park (ref. 08/00917/FUL). This application was refused. The planning policy response to the 2008 application raised concerns about the loss of employment use at Manvers House and this was one of the reasons for refusing the application. With regards to the proposed development on the car park site, the 2008 policy response stated that "the provision of new build housing should be considered in relation to other matters such as traffic, conservation and amenity matters"; and that, in particular, "the implications for traffic flow and parking within this part of Bradford on Avon should be investigated given the existing degree of congestion". It was also noted that a separate application for 170 dwellings on the Kingston Mill site (ref. 06/02394/FULES, since permitted) would already provide more than the 130 dwellings indicated for the Kingston Mill site by policy H4A.

Key issues:

The key issues are considered to be whether residential development on this site would be acceptable in principle, and whether matters of traffic flow, parking, conservation and amenity have been sufficiently addressed.

As noted above, the Mill Lane car park forms part of the Kingston Mills development site identified by policy H4A as suitable for about 130 dwellings and "small scale retail, further education, financial services office and leisure/arts". Permission has already been granted for comprehensive mixed use redevelopment of a large portion of the Kingston Mills site (not including the Mill Lane car park), to include provision of around 170 dwellings. Any proposal for residential use on this site would therefore need to be considered within the wider context of the redevelopment of the whole Kingston Mills site. However, as the car park is not currently in employment use, and is located within the town policy limits, it is considered that small-scale residential development would be acceptable in principle (policies H1 and SP5 of the District Plan refer).

The policy comments relating to the new build proposals in 2008 are still relevant, and the implications for traffic flow and parking, and conservation and amenity matters should be considered. The Wiltshire 2026 consultation document noted that "poor air quality as a result of high traffic volumes and congestion in the town centre" is one of the key issues in Bradford on Avon, and responses to the consultation indicated that traffic problems are an issue in the town.

There appears to be some confusion within the application material as to the number of car-parking spaces which are currently provided in the car park. The application form states that there are currently 60 spaces; the Planning Statement indicates that there are 42 spaces, of which 25 are let to local businesses with the remainder (17) let to contractors on the Kingston Mills site; and the Transport Statement states that there are approximately 42 spaces, of which 25 are currently leased, including 10 which are associated with Linden Homes and the Contractors working on the Kingston Mills development. The applicants also state that "the private nature of the car park is such that this arrangement could be terminated at any time without recourse to planning" (p.8, Transport Statement).

The Council will need to be satisfied that issues of traffic and parking are sufficiently addressed. In particular, there is a question over where the current users of the car park will park, should the application be permitted.

The site is located within an Area of Archaeological Interest, and an archaeological assessment is therefore required under policy C15 of the District Plan. The applicant states that an assessment was carried out to support the 2008 application, and that this found no below ground archaeology.

The Council will also need to be satisfied that matters of conservation and amenity have been sufficiently addressed.

Policy Recommendation: It is considered that residential development on the Mill Lane car park site is acceptable in principle, as indicated by policies H1 and SP5 of the District Plan. The Council will need to be satisfied that matters of traffic flow, parking, conservation and amenity have been sufficiently addressed. In particular, it is noted that there is some confusion about the current level of parking provision at the site, and it is suggested that the implications on the surrounding area of the loss of parking at the site should be considered.

8. Publicity

The application was advertised by site notice / press notice / neighbour notification.

Expiry dates: 31 December 2010 (in respect to the initial proposals) and 17 June 2011 (in respect to the revised proposals)

Duncan Hames MP - Objects.

I have recently been contacted by a number of my constituents with concerns about the planning application submitted to build residential housing on the existing Mill Lane Car Park in Bradford on Avon. They have informed me that even though the land is covered by the Kingston Mills Development Brief, the current planning proposals will not bring any "lasting benefits to the town, its workforce and residents". My constituents feel that there are a number of alternative proposals that could fulfil these conditions, but that the construction of residential housing on Mill Lane is detrimental to the future of Bradford on Avon. I have also been advised that the proposals breach Policies HE 6.1, 7.5 9.5 and 10 of Planning Policy Statement 5 and District Plan Policy C18.

Members of the Bradford on Avon Development Trust feel that residential housing on this site will not provide any positive contribution towards efforts to preserve or enhance the Conservation Area, as well as having an adverse effect on the views from Manvers House and The Hall - both of which are listed buildings. A similar planning application in the same area was rejected by the planning authority in 2008, and my constituents are unable to find any changes in the last two years that would invalidate the reasons given for the refusal.

Additionally, it is felt that residential housing will only have the capacity to benefit the families living there, although there are a number of alternative proposals that could increase employment or alleviate parking problems for many more residents.

The Mill Lane Car Park, although currently in need of regeneration, has the potential to bring lasting positive contributions to the residents and local businesses of Bradford on Avon. A number of residents feel that the current proposals to build residential housing will not provide lasting or substantial economic benefits to residents, as well as exacerbating existing parking and traffic problems.

Bradford on Avon Preservation Trust - Objects.

The Preservation Trust argues that the site is totally unsuitable for further housing development and must be used to encourage business development. With the commitment of the owner of the yard above the site, this car park could afford a convenient access up into Silver Street and parking for customers who need to do business there through the archway of the old brewery. The turnover of

the shops and other businesses in Silver Street has been tragically fast in recent years because of the difficulty of getting there and the lack of parking.

This whole area immediately to the north of the river has been the industrial heart of the town from time immemorial and has been deprived of that possibility by the redevelopment of the Kingston Mills site. The Preservation Trust recommends refusal in principle and confirmed having no interest in details of design in this case, so further revisions to the design carry no weight.

The Trust fully concurs with the Town Council's recommendation for Refusal and its comprehensive account of its reasoning. The Trust, however, would like to add a further reference to PPS 5.HE 3.1 which gives advice on maintaining economic vitality in historic areas. Silver Street is already under serious threat with no less than three premises being vacated in the past six months.

There is no off-street public parking north of the river in Bradford and this site offers the last opportunity to create some in the commercial and historic centre of the town, which is already a Conservation Area with numerous listed buildings. Silver Street suffers from very narrow footpaths, or none at all. This car-park, if retained and made public, would greatly add to the economic viability of this street and the commercial buildings being built within the Kingston Mills redevelopment.

The Traffic Assessment with the approved planning application for the Kingston Mills redevelopment admitted a shortfall of on-site parking spaces. On street space for parking eleven vehicles has been lost by the creation of a footpath along Mill Lane. The subsequent raising of the Social Housing units on the redevelopment from 17 to 53 is expected to increase the demand for residential parking, and thereby cause even greater overspill of demand to nearby streets and the north side of the town centre.

In sum, housing on this site would be unsustainable by aggravating rather than mitigating the existing problem of inadequate parking for residents and businesses. Anyway, further housing is accepted by Wiltshire Council to be no longer needed within the town.

This proposal must not be decided under delegated powers, but refused by the Planning Committee of Wiltshire Council on principle, not just because of poor design. The proposals will not benefit the character of the town and will add nothing to the activity, amenity or visual quality of the Conservation Area.

Wiltshire Heritage - Objects.

On behalf of the Council for British Archaeology (CBA) and the Wiltshire Archaeological and Natural History Society (WANHS), the following comments are made:

The site is well known to us and it is argued that the revised proposals would be detrimental to the surrounding landscape of the protected buildings by introducing structures that impose on the sight lines from existing buildings as they exceed the roof lines and are of totally different architecture.

The courtyard is bounded by walls which predate some of the surrounding listed buildings and the ground will certainly hold archaeology relating to the Saxon occupation of the town north of the River. The proposal seeks the removal and demolition of parts of the retaining walls (measuring over 2 metres in height). The walls should not be removed and the archaeology should be preserved in an accessible way.

This development would be contrary to HE3.4 of PPS5 and thus undermine the local distinctiveness of this courtyard and its place in the historic environment of the town.

The dense development would not be in line with HE7.4 and HE7.5 as it does not make a positive contribution to the surrounding heritage assets nor bring sustainable economic development to the town. It could be argued that the loss of parking for local shops, restaurants, offices would have their economic sustainability impeded by the loss of such facilities, especially since that they are the only facility on the north side of the River.

Bradford on Avon Development Trust - Objects.

Others have highlighted the specifics of planning policy. Bradford on Avon Town Council's objections include the assertion that the scheme will not "contribute to the long-term preservation and enhancement of the Conservation Area" and that it does not provide proper development "as assessed with regard to the criteria set out in Policies HE6.1, HE7.5, HE9.5 and HE10 of PPS5 and District Plan Policy C18".

The Trust wish to stress that "if allowed, the change of use involved in this application would have an adverse impact on the economic viability and the conservation of the town quarter bounded by Silver Street, Mill Lane and Kingston Road".

This includes a number of retail stores as well as 6,000 sq ft of employment space, currently un-let because of problems of access. It will also impact on the success of the retail element of the Kingston Mills site, since there is no public parking provision within the Kingston Mills development.

In more detail:

1. The car park remains an essential part of the employment fabric of the town. Virtually all spaces are currently let to employers within the town, to retailers and to Linden Homes (whose requirement will continue for another 2-3 years). In addition, the company based in Manvers House has an option on use of the car park as an essential overflow for its own parking area.
2. The land is covered by the Kingston Mills Development Brief (adopted as WWDC Council Policy in December 1994) which states that "the aim of the brief is to ensure that the opportunities afforded by the site's redevelopment are realised in a way which will bring lasting benefits to the town, its workforce and residents'. It has been acknowledged that there is an insufficient amount of parking provided within the Kingston Mills site. Since the Mill Lane car park was always included within the Development Guidance for the Kingston Mills development, it has always been implicit that this site could provide some relief, if it could be brought into public use.
3. If the present application is passed and change of use is permitted, the land will be sold and the town will lose the only available parcel of land for a public car park north of the river.
4. The car park is part of the ancient fabric of the town, a former walled garden that has maintained its contiguity and never been built on. It has always been an open space. Although in its current form it is unkempt and in need of attention, its situation is part of the heritage of the town and an important element within the conservation area.
5. A similar application (including reversion of Manvers House to residential) was rejected by the planning authority in 2008 under delegated powers. The Officer Appraisal was detailed and thorough. It included the following comment:-

"The site is shown as part of the Kingston Mills site which sets the policy framework for the redevelopment of a mix of uses to include about 130 dwellings... The submitted application on this site which is the subject of a resolution to grant dated 29 November 2007 provides for 170 dwellings, including 53 affordable dwellings... As this will meet the residential requirements of this policy it is considered that there is no imperative for the scale of residential use proposed on this site".

We do not believe that there has been any material change in the past two years that would nullify the 2008 reasons for refusal.

6. On behalf of the community, the Bradford on Avon Development Trust is proposing an alternative vision for the car park. It will regenerate this quarter of the town, unlocking the potential for the employment of 30-40 people in B 1 accommodation, providing a boost to the retail environment and contributing to an improvement in town centre traffic congestion. Our plan will also greatly enhance the setting of the historic buildings that surround the space, creating a unity of place.

7. We have the support of the BoA Town Council, BoA Preservation Trust, the BoA Chamber of Commerce, Dr Alex Moulton (The Hall) and adjoining residents.

We understand that this vision is not sufficient in itself to form the basis for a rejection of the planning application from Fortdene Limited. However, we believe it is important for the planning authority to appreciate the full impact on the town if change of use is allowed. If the speculative London developer is successful in getting his plans accepted, then the value of the land will deliver a one-off profit to the developer.

However, if the application for change of use is rejected, the land can be acquired as a community asset, unlocking the opportunity and the space for several dozen new jobs, delivering vitally needed public car parking to the benefit of local people and retailers, and in so doing also provide a public space that reflects the heritage of the area.

The alternative vision for the Mill Lane car park

In more detail, our proposal is based around:

- acquisition of the land for use as a public short-term pay-and-display car park
- the creation of a number of artists' studios within the car park
- the consequential unlocking of stalled employment space in Silver Street
- the landscaping of the car park to echo its original status as a green area.

1. Public short-term pay-and-display car park

If we are able to accommodate 25-30 cars to the north of the river, it will help reduce the number of journeys people make by car across the town bridge to find a parking space before crossing back over the bridge to do their shopping. It will be a real boon to local traders and will provide a welcome bonus to efforts through the Historic Core Zone initiative to improve the balance between people and traffic in the town.

As a first stage we will furnish the car park appropriately and then open as soon as possible.

There will be 35+ spaces, with 8-10 spaces available to rent/lease. (For comparison, the library car park has 26 spaces, St Margaret's has 59 spaces).

The car park will be owned and operated by the Development Trust or a subsidiary. We will seek an arrangement whereby parking enforcement will be handled by Wiltshire Council. All profits will be used in support of the work of the DT.

The cost of short-term parking will be the same as in other comparable car parks in the town.

2. The unlocking of stalled employment space in Silver Street

The commercial premises at 24 Silver Street have been on the market for a considerable time. The units offer 6,000 sq ft of employment space, including important frontages onto Silver Street. Entry to the units is via an archway (leading to a yard) that opens directly onto Silver Street on a corner. The difficulty of access is a key reason that the units have remained largely empty for so long.

The yard at 24 Silver Street is adjacent to the Mill Lane car park and ground levels are relatively similar. If we are able to acquire the Mill Lane property and open it as a public car park, we propose creating a traffic opening from the car park into the 24 Silver Street yard. We are currently in discussion with the owner of 24 Silver Street (Chris Bowyer) on the detail of this element, including the demolition of one prefab building. Both parties are excited about the opportunity it would provide to revive this significant part of the town centre.

3. The creation of a number of artists' studios within the car park

As a second stage following the opening of a public car park, we propose building a small number of artists' workshops on part of the north and west sides of the car park, including undercroft parking so that no parking spaces are lost.

There is a known demand for artists' workshops in the town. We anticipate up to half a dozen workshops that would be available to residents on an easy-in/easy-out basis and at an economic rent. The design of the building will be geared to creating a small community feel for tenants, creating additional employment space and adding further character to this quarter of the town.

We are looking at the cost of timber-frame workshops with slate-like solar tiles on a mono-pitch roof that would peak at or below the high wall level on the north side (the building would not extend in front of the lower part of the north wall).

4. The landscaping of the car park to echo its original status as a green space.

Stage two would also include the landscaping of the car park, including suitable trees, paving etc, in order to turn the car park into an attractive public space that complements its location, including the vista across the completed Kingston Mills site. The car park will also provide a perfect complement to the future Historic Core Zone streetscape.

In addition to the above, 27 individual letters of representation received raising the following concerns:

- This application does nothing to enhance the vitality of the Town Centre and nor does it preserve its unique character.
- The applicants design statement is shrewdly presented, however, design considerations are one thing, contextual (i.e. traffic, arboriculture, conservation etc) issues also require consideration.
- The applicant has failed to consider the emerging Wiltshire Core Strategy and its determinations for the vital community concerns and priorities of the Town.
- The proposed terraced building is too large and visually intrusive for the site. Surrounding listed buildings would be overwhelmed and detrimentally affected.
- Overlooking / loss of daylight and privacy to neighbours
- The application disregards the urgent community need for sustainable economic provision/enhanced employment opportunities. Given the site's position, it should principally be considered as a priority site / resource for small businesses. It is essential that the site is used efficiently. This housing proposal fails in this regard.
- There is a serious lack of parking in the Town already. The closure of Mill Lane for on-street parking has had significant impacts on local residents and businesses. Since 2004, local residents and businesses have paid an annual fee to Avon Rubber (owners of the site) for parking spaces. Why should locals suffer for the inappropriate financial gain of one developer?
- Since the 1970s, the Town has seen much change and car ownership and traffic levels have increased significantly, conversely, parking spaces have dwindled, especially north of the river. Why make a bad situation worse?
- Noise pollution.
- Increased traffic and the associated pollution will dirty the natural stone on ancient buildings and at worst, undermine their very fabric.
- The recent removal of parking in Mill Lane and now the removal of available parking on the proposed site, together with the increase likely to result from the proposed build of six properties, will further increase the problems of parking in the restricted area available in Woolley Street. Whilst the residents in this area, that have no off-street parking, have constantly requested residents' parking no response has been provided. They are now forced to park elsewhere in town.
- The commercial and business life of the town is currently being stifled by the lack of public car parking throughout the town. This will make it worse on this side of the town bridge.
- The car park is basically within an industrial area behind commercial buildings. This does not provide a pleasant or desirable outlook. Nor does it sit well with other listed buildings in the immediate area.
- Access to the site is restricted
- The proposals conflict with PPS5 and Local Plan policy C18.
- When Avon Rubber closed its operations on the Kingston Mill site and the car park was no longer required for the workforce, we were invited to park there. Since 2004, we have paid an annual fee to Avon Rubber for two spaces in the Mill Lane car park, along with neighbours and local business owners. This is the only car park on the north side of the town and because most of our houses have no garages or driveways, we are very reliant on the spaces. Unlike residents on the south side of the town, we have no residents' parking permits.

- This profit from property proposition will lead to serious over-development of what is a tightly constrained site and, given the over-development of the Kingston Mills site, it is unlikely to complement the area in the foreseeable future.
- If the Proposal put forward by Nash Partnership is permitted to go through, we may regard it as further indication of an insidious 'turning over' of historic core zones to private enterprise. In this congested, north-of-river sector of Bradford-on-Avon, bereft of suitable parking, nobody knows what this Proposal means better than I who - as retailer, resident, foreman, car-owner, family man - is in a position to witness the real causes that now bring frustration and anguish to those of us who have taken Bradford-on-Avon as our home.
- A local resident has been approached and asked as to who controlled the Mill Street Car Park; and to whom they need apply to secure a personal parking space. In both instances, the enquirers were new homeowners, very recently installed within the new mixed-use Kingston Mills Development - commenting that the on-site parking allocation seemed inadequate for those of us with joint car ownership and visiting family and friends.
- This indisputable fact sadly compounds a conspicuous problem. Many of us, within our responses to the Planning Proposal, repeatedly have been at pains to articulate not only our material concerns but also to stress the threat of contradiction to the District Planning Policies (Planning Policy Statement 5 HE 6.11, HE 7.5, HE 9.5, HE 10 ; District Plan Policy C 18; et al).
- At the granting of Planning Permission for Kingston Mills, by West Wiltshire District Council's Special Planning Committee, on 29th November 2007, the following (abbreviated) conditions/provisos were imposed upon the Architects and Developers:
 - a) ... "to increase off site parking capacity"
 - b) ... "to manage off-street car parking demand"

In attendance, Edward Nash (and Chris Beaver) of Nash Partnership: representative as Architect and Agent for the Developer Linden Homes. It is reprehensible then - with the threat of an essential community parking amenity being eradicated in favour of another Residential 'profit from property' scheme - that the Architect and Agent for the Developers (Fortdene) should be none other than Edward Nash of Nash Partnership - acting in blatant contradiction to the provisos.
- The bin location and their proximity to neighbouring properties will lead to unpleasant smells and nuisance.
- Loss of healthy, beautiful trees.
- No need for more housing.
- Access to commercial properties along Silver Street could be opened up if the site were to be alternatively developed.
- There is no affordable housing provision.
- The site, along with the Kingston Mills site, would be overdeveloped.
- Historically, the site was an open space, giving adjacent properties views across the Town. This development would obliterate these views/vistas.
- This development would ruin the aesthetics of the Town and de-value adjacent properties.
- The site should become a public car park, be tidied up and landscaped. This would encourage more visitors and business to the Town.
- Allowing this development will further the existing bad feeling local residents have towards the Council in terms of its consistent unsympathetic decisions affecting the Town.
- The 2008 application was refused on the grounds that the residential requirements for the Town had been met by the Kingston Mills site.
- Despite the submission of revisions, the fundamental objections raised above remain. The introduction of a tree in the centre of the site could lead to problems of foundation destabilisation and loss of light as the tree grows.

9. The Applicant's Case

The applicant recognises that whilst the 2008 applications were refused, there was no reason for refusal covering the erection of houses on the car park site. Subject to satisfying adopted District Plan Policy, the site is identified for such purposes and therefore the principle should be seen as being established. The redevelopment of Manvers House no longer forms part of the proposals. It is also stressed that "PPS3 advocates housing development on brownfield land in suitable locations which offer a good range of community facilities and with good access to jobs, key services and infrastructure. As the site is within Bradford Town Centre it is afforded easy access to all of the facilities that it provides. There are also good bus links to nearby towns and cities".

The scheme would be able to "plug-in to the one-way transport strategy devised for Kingston Mills proposals". The parking proposals have been subject to discussions and negotiations with Council highways officials, and it submitted that no highway objections are raised. The design for the car parking allows vehicles to reverse out of parking spaces and leave the site in forward gear.

The applicant further submits that "Mill Lane is characterised by its enclosure on both sides by an almost solid building line, either by buildings or by high boundary walls...This character will not be altered by the proposed development because the terrace [would] continue this solid building line".

"The layout of the dwellings has been reconfigured to create a terrace of dwellings orientated to sit on the contours of the town. This is because throughout the steep slopes of the northern side of Bradford on Avon, the short terraces running along the corridors can be seen as evidence of the incremental pattern of development here over many centuries that, with extreme topography, have created such distinctive urban character. Based on this, the layout has been revised to make it more in keeping with the urban form of Bradford-on-Avon".

"All of the buildings beyond the car park turn their back on the site and so there, are no proximate windows overlooking, with one exception. Above the wall at the northern side of the car park is a building with windows directly overlooking the site. Beyond this elevation, there is another building with windows looking over the car park. The design of the proposed dwellings has taken into account the proximity of these buildings to the site. For this reason the terrace has been located closer to the southern end of the site providing a distance of 14.5m between. It is only the attic floor of the proposed development that presents any potential issues with overlooking and this was fully considered in the design process. The windows of the attic floor looking out from the northern elevation belong to a small bedroom and bathroom. These rooms also have roof lights to supplement the intake of light and therefore the windows facing the northern boundary are small; It is considered that adequate measures have been taken to prevent any significant overlooking and amenity issues; however obscure glazing could be used if additional measures were deemed necessary.

Further to this, the window located above the northern boundary wall is clearly not part of a habitable room as its window is partly boarded up. Therefore there are no amenity issues arising from it.

Careful consideration has also been given to the potential for the proposed development to overshadow surrounding buildings. Bradford on Avon is characterised by its topography and by the different orientation of buildings caused by organic, incremental growth of the town.

The proposed building would not be incongruous and overshadow buildings in the vicinity. The buildings have been orientated and located far away enough from the boundaries to ensure this. This is in accordance with Policy C38 of the Local Plan".

The applicant / agent submitted the following comments in response to the Conservation Officer's objections:

"The way buildings are perceived within the wider urban landscape is always determined by the largest buildings there are, inevitably, given the complexity of towns; some lesser buildings will disappear in such views, hidden by others. So it did not seem unreasonable to test the height of the proposed new building against the most significant of the existing as these are the ones that manifest in distant views.

The principle that building heights should, broadly speaking, relate to topography is broadly sound, but in fact, the gradient of Mill Lane is 7 degrees and the gradient of the line I drew between the properties to the north and south of the site only 5 degrees and so the point is a narrow one.

In fact, if topography alone is to be the measure then the important thing to note is that this car park site within Bradford on Avon town is quite a large site, but it is entirely level in an east/west direction (whereas Silver Street falls) and in a north/south direction falls far less than Mill. The gradient across it in a north/south direction is actually only 2 ½ degrees.

Perhaps the best way to judge how the buildings should fit within this location is to look at the way they would lie within a photo montage prepared to a photograph taken from Bradford on Avon's well

known high point, the Scout Hut, south of Bridge Street. The photograph submitted on 18 July was taken after the scaffolding on the Kingston Mills was removed and thus features, for the first time, the effect of the variation of prepared house types with the lower hip roof buildings at the western end.

We believe in overall impact terms this would present an appearance wholly consistent with the character of Bradford on Avon where many terraces present their best face to the valley, but terraces are rarely built of more than 4 or 6 dwellings and within them there is much variation and many eccentricities.

Within Bradford on Avon, there are only a limited number of high points from which issues like this can be considered. East of the Scout Hut the foreground becomes obscured by trees, to the west, buildings and view lines follow the curves of the roads leading out of the town and there are no elevated view points at all to the west from which this site is significant.

Building Hierarchies

The Council's Conservation officer has made a point about the hierarchies of development on the site, compared with that of surrounding buildings. A separate photograph was submitted showing the 3 dwellings running west of Mill Lane. All have attic accommodation of varying degrees and one features a stone fronted gable and eaves line set around one metre above the floor level the gable window serves. This was one of the direct precedents we used to produce this design and is common throughout the town. However, we chose to make the gables more compact and narrower.

One of the notable characteristics of Bradford on Avon is how buildings of different classes and qualities sit cheek by jowl to a very unusual degree. It is a most distinctive feature with fine and substantial 18th century mansions sitting alongside diminutive cottages.

Since the Silver Street buildings are very well hidden behind high rear boundary walls, the true Conservation Area Character context set by this site is that determined by this relationship with the boundary and landscaping of The Hall nearby and Manvers House whose walled garden this once was. The applicant submits that the proposed buildings are not out of scale with the substantial eastern elevation of the property at the top of Mill Lane and the gable end of our terrace will be seen within the generous spatial setting that the grounds of The Hall create. It is common to find that with a building of the substantial scale and status of The Hall that buildings in its vicinity reflect that status and this was a positive consideration within the quite sophisticated and well crafted design we produced here.

Close Quarter Views

As our various 3D illustrations and model photos show, the gable end of Mill Lane adds a note of drama of a kind found all over Bradford, all the more interesting because of the contrasts of street width, building height and variety of form.

The other close-quarter view available is that from Kingston Road where the lower level car park of Manvers House is undeveloped and so reveals the high rubble stone wall behind which this elevated site is located. This wall is around 5 metres high and substantially determines the degree of visibility of the new houses, so for someone walking along Kingston Road, the line of sight and the site's boundary wall would obscure all but a few metres of the walling of the terrace below its eaves line and it would not loom over Kingston Road as the Conservation Officer, argues.

Bradford on Avon is a remarkable town due to the severity of its topography and the way this is heightened and exaggerated by the presence of great variety of structure for the most part displaying craftsmanship in stone and an eccentric variety of form and architectural character. The town's character is all the more remarkable by the fact that, particularly in its centre, it has a large number of buildings of substantial scale whose juxtaposition frames urban views and makes for rich overall visual experience from a multitude of viewpoints.

Closing remarks

In the evidence we have prepared in support of this application, we have shown that the proposed terrace here (which consists of two house types) is not in fact out of scale as regard its length, its number of storeys or its height when measured either by reference to surrounding ridge heights, by reference to topography or by reference to its impact within a photomontage from the only significant distant viewpoints the town affords.

We believe in terms of status this is an unusually well-crafted building supported by a large amount of detailed drawing, which has been designed, quite rightly, to reflect the architectural status of The Hall and that of Manvers House, rather than that of the buildings within Silver Street which are substantially screened from it.

If the alternative to the scheme were to be to provide a terrace of ordinary two storey dwellings, such as that previously considered in 2008, we believe the character contribution to the town would be much less than can be achieved with this design. We believe there is evidence that there is no case for concern about loss of privacy for the gardens of the Silver Street properties in view of the relationships of height between the dwellings of those gardens and properties and the functions that will take place within the rooms under consideration.

If the only way to win the support of the Council for development on this site is to revert to a wholly '2 storey to eaves' design the applicant would give this very serious consideration now - but it would have to be more humdrum and risk presenting when done as just another piece of urban infill.

There are times, especially in Conservation Areas where it is right to add something of distinctiveness, especially within the context of a building of the status of The Hall.

10. Planning Considerations

10.1 Principle of Further Residential Development Within Town Policy Limits

Government advice contained within PPS 3 (as revised in June 2010) states, inter alia, that the planning system and decisions should deliver a mix of housing, both market and affordable, particularly in terms of tenure and price, to support a wide variety of households in all areas and the provision of a sufficient quantity of housing taking into account need and demand and seeking to improve choice. It is also duly acknowledged that PPS3 (as revised) removed the prescriptive minimum housing density requirement.

Whilst having due cognisance of the above, the site is identified in the adopted West Wiltshire District Plan - 1st Alteration as forming part of a 2.18 hectare landholding which includes the Kingston Mills site, which is still being re-developed. For the avoidance of any doubt, both the Kingston Mills site and the Mill Lane car park site are both included within policy H4A - titled 'Urban Mixed Use Brownfield Allocations'. This policy suggests that both the Kingston Mill site and the Mill Lane car park could be redeveloped "to include about 130 dwellings" and "small scale retail, further education, financial services office and leisure/arts".

The car park site is located entirely within the defined Town Policy limits of Bradford on Avon and under Policy H1 of the West Wiltshire District Plan, proposals for new housing development in this area may be permitted provided, inter alia, that the siting, layout and design considerations are satisfactory, and that they are in keeping with the character of the surrounding area and that providing such development does not give rise to highway problems or create inappropriate backland or tandem development.

Policy H24 leads on to state that new housing should face onto, with windows and doors overlooking, the street or other public areas. Whilst offering some innovative design opportunities in new developments, the policy also states that details, materials and finishes should complement the local characteristics.

West Wiltshire District Plan Policy C31a states that all new development, residential or otherwise, is required to respect or enhance the townscape features and views, existing patterns of movement, activity and permeability and historic layout and spatial characteristics. Policy C38 further states that new development will not be permitted if neighbouring amenities and privacy values are significantly detrimentally affected.

Whilst each application should be assessed on its own merits, the recent (2008) planning history for the car park site is a material consideration. It is recognised that Manvers House no longer forms part of the development proposals. It is further submitted that in planning terms, whilst the car park may well service local businesses, it is not considered employment land, and therefore, this development would be not result in any loss of employment buildings/land or floorspace. The applicant correctly states that in refusing planning application 08/00917/FUL, the Council did not raise any principle objection to developing the car park site (which would consequently displace private car parking). Officers argue that since the site has been identified having redevelopment opportunities as enshrined within the Council's adopted District Plan, the loss of a privately owned car park should not be grounds for refusal.

Whilst local residents have raised concerns about the above and referenced the emerging Core Strategy as grounds for refusal, Members are advised that officers, including the Council's Highways Authority and the Spatial Planning team, submit that a small-scale residential development would be acceptable in principle.

Officers however submit that whilst the above principle is established, the submitted proposals are not supported.

10.2 Impact on Conservation Area / Heritage Assets

Throughout the planning process, the Council's Conservation officer has been involved with the negotiations held with the applicant's agent. The Conservation officer recommends that unless the proposed development is reduced in scale, it should be refused.

Planning Policy Statement 5 - Planning for the Historic Environment and Section 66 & 72 of the Planning (Listed Building and Conservation Area) Act 1990 highlights that the Local Planning Authority has a duty to pay special attention to the desirability of preserving and enhancing the setting of a building or buildings of special architectural or historic importance and character or appearance of the Conservation Area.

Whilst the applicant/agent has endeavoured to address officer concerns, the height and scale of the proposed spilt terrace are not considered acceptable, and would detrimentally affect the special character and appearance of the Conservation Area and the setting of surrounding listed buildings.

Even with its western end split, the main part of the terrace would be about 10 metres in height (and over 12 metres including the chimneys) and this is considered to be excessive and detrimental within the local setting and to Conservation Area character. Officers submit that the revised proposals would still present an overtly visually domineering three storey building, with a steeply pitched roof within a relatively confined space and in terms of its impact, the terrace would visually compete with Manvers House, an important Grade II star listed building, which is not considered appropriate.

During the course of negotiations with the architect, officers suggested that the building mass should be broken up and reference should be made to the varying roofscapes of the surrounding properties. These roofscapes, and their varying ridge levels contribute greatly to the special character of the area. In response to this suggestion, the architect redesigned the western end of the terrace. However, whilst the roof mass would be reduced (compared to the initial plans), the end of the terrace lacks architectural coherence with the main building block. Whilst the roof mass would be reduced, the western most "cottage inspired" section of the terrace would still present a large building block in its own right measuring between 9.4 and 10 meters in height, which is considered too high.

Both the Conservation Officer and case officer recognise that the architect has endeavoured to calculate and visualise the impact of the terrace by using the ridge height of Silver Street properties

and that of Manvers House. Whether the site is developed with a terrace (in a reduced form) or as part of a different layout, officers submit that the height of Manvers House should not be used as the benchmark for building on the elevated car park site. The Conservation officer eloquently and correctly stresses that Manvers house is "a large and impressive Georgian Grade II star Listed Building that has a high status". The proposed terraced development, located further up the hill, would visually compete with this building, which is not considered appropriate. Any development on the elevated car park site needs to be more respectful of its surroundings and promote a more subservient form of development.

On the basis of the above, the height, scale and design of the 6-unit terrace would run contrary to PPS5 policies HE7.4-7.5 as well as failing to accord with adopted District Plan Policies H1, H24, C31a and criterion B of Policy C18 and therefore justifies a refusal.

Whilst the above represents a fundamental objection to the scheme, officers do not wish to raise any objection to the choice of materials, or the fenestration treatment.

10.3 Loss of Car Parking / On Site Servicing / Environmental Considerations

As reported above, following lengthy discussions with the applicant's agent, the Council's Highways Authority raise no objection to the revised housing development, subject to conditions.

It is recognised that if approved, this development would result in a displacement of existing car parking. Whilst the concerns raised about the loss of car parking are duly acknowledged, the fact that the Mill Lane car park is in private ownership cannot be ignored. It must also be recognised that the short term lease arrangements/agreements which allow local businesses and local residents to use the car park, could be curtailed without any Council involvement. In addition to the above, adopted District Plan identifies the car park site for residential / urban mixed use redevelopment.

On the basis of the above, whilst the consequences of the development are fully respected, members are advised that it would be unreasonable for the Council to refuse planning permission on the grounds of loss of / displaced parking.

As part of the consultation exercise, Wessex Water advised that surface water run off cannot connect to their foul mains, as it would potentially cause unacceptable overflow issues downstream. After advising the applicant's agent about Wessex Water's comments, the applicant's agent advised that an alternative system would involve the provision of soakaways and possibly incorporating a retention system to stretch the infiltration over a longer period. At present, the car park is mainly in hard standing and served by a couple of gulleys draining the surface water. However, if this development is approved, there would be less hard standing with the provision of gardens and soft and hard landscaping, which could assist in draining future surface water. Should the application be approved, a suitably worded condition would be necessary to cover surface water drainage.

The Council's Environmental Health team were consulted and were part of the early discussions held with the applicant's agent. Following a site inspection and review of the proposals, no environmental objection was raised.

10.4 Landscape / Loss of Trees (including TPO'D tree)

Along with the case officer and the Conservation officer, the Council's Tree and Landscape officer has been party to lengthy discussions with the applicant's agent. Following the submission of the revised plans, which include the felling a Poplar tree which is subject to a TPO, the above officer raised no objections. In tree and landscape terms, the development would be considered acceptable, subject to conditions.

10.5 Impact on surroundings / residential amenity / privacy

Officers recognise that the applicant's agent has endeavoured to address the concerns raised about the impacts the terraced development would have upon residential amenity and privacy. A sketch plan drawing (dwg. no 10056/SK/19/4/2011) was submitted in an attempt to contextualise the likely impacts of the terrace on its immediate neighbours. This sketch plan and its accompanying letter

from the architect dated 11 May implies that there is 22 metre separation or thereabouts between the northern facade of the proposed terrace and the southern rear habitable elevations of residential properties along Silver Street. There is a 22 metre separation in some cases, but some of the Silver Street properties project much closer to the car park than others. For example, No. 18 Silver Street has a rear extension which is understood to be used as a garden room and has two glazed window openings on its rear facade. If this application was to be approved, this accommodation would be potentially overlooked by the terrace some 14 metres away. A 14 metre separation between opposing domestic facades is not considered appropriate and as highlighted by the occupiers of No. 18 Silver Street, residential amenity and privacy would be compromised.

The distance between windows is not the only concern. At 10 metres high, the uppermost floor windows serving habitable rooms within the proposed terrace would have the potential to overlook the rear garden amenity grounds associated to the Silver Street residences located 13-14 metres away. It is recognised that a high wall separates the lower level car park site from the Silver Street properties and gardens, however the submitted sketch plan drawing contextualising the potential impacts does in part, rely upon an existing wattle fence and shrubbery on neighbouring land being retained in perpetuity to prevent overlooking of rear gardens, which is of course something the applicant cannot control.

The applicant's agent makes a point of highlighting a "typical situation" whereby dwellings of two storeys with 12 metre gardens separating each other, and thus have a separation of 24 metres, consequently results in overlooking of 50% of neighbours garden ground from upper floor windows. Whilst the above argument cannot be disputed, the fact remains that the application proposals constitute overlooking/loss of privacy and amenity to properties 13-15 metres away and not 24 metres distant.

Officers note that the owner/occupier of the Hall, the Grade I listed property located 105 metres to the east of the car park site, has raised an objection to the eastern gable window opening. The separation between the site and the Hall and the well established tree planting within the Historic Park and Garden is sufficient to ensure that the proposed development would not detrimentally affect the character, setting or amenities enjoyed by the listed Hall property.

Officer concerns about the impact on neighbours rest with the relationship of the terrace and the Silver Street properties, and most notably with No. 18.

In terms of the above, the proposed terrace would have a demonstrable and detrimental impact on the amenities and privacies enjoyed by the occupiers of neighbours, contrary to the provisions of adopted District Plan Policies C38 and H1 and conflicting with the Council's adopted Residential Design Guide SPG.

10.6 Archaeological and Ecological Issues

The Council's Archaeologist and Ecologist both confirmed that they wished to raise no objections. The application proposals are therefore seen to accord with the respective guidance contained within PPS5 on Archaeological issues and PPS9: Biodiversity and Geological Conservation.

10.7 Education Contributions

The Council's Education Team report that as a result of considerable pressure in Bradford on Avon, contributions would be sought for primary school places. No contributions have been earmarked for secondary places as capacity exists at St Lawrence School. It is understood that the education team remain concerned that following on from representations to the Core Strategy, there is predicted growth of Bradford-on-Avon to the east and therefore they have started anticipating the school places that this will generate.

Adopted District Plan Policy S1 and the Education Services own 'Policy for Requesting Section 106 Contributions for Education Infrastructure' state that where reasonable and appropriate, education infrastructure contributions shall be sought from developers in accordance with the requirements of the Local Education Authority. The Head of the Council's Schools Strategic Planning recommends that if this application was to be approved, the 6 house development would create a need for 2

primary school spaces, calculated at £12, 257 each. This index linked sum of money stated would contribute towards the expansion of Fitzmaurice Primary, together with Council funds to meet the demographic pressures.

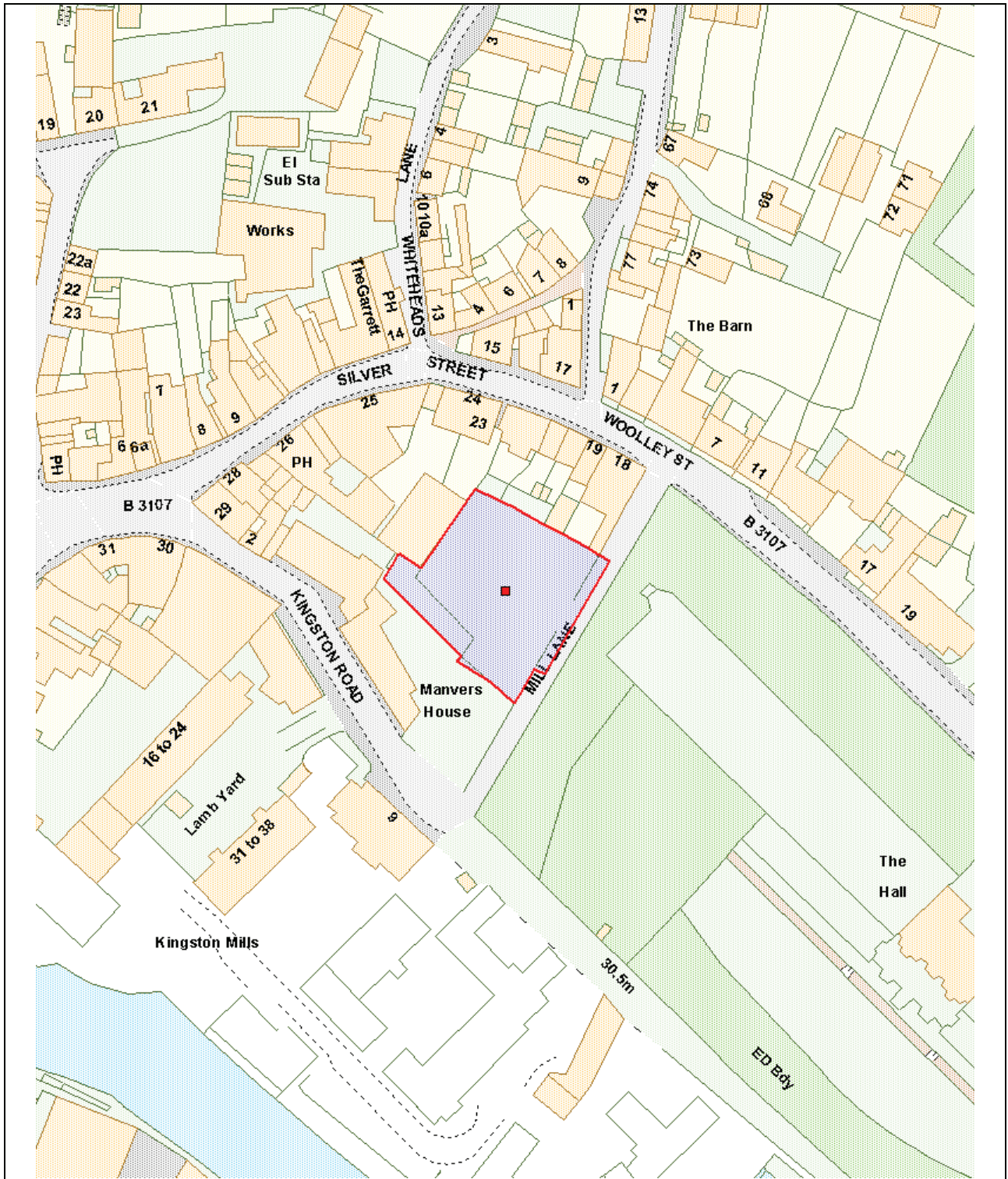
The above contribution requirement has been the subject of lengthy discussions between planning officials, the education service and the applicant's agent. For the first 5 months of this application, the applicant was opposed to being subjected to the above obligation. However, after meeting with Council officials, on 12 May 2011, the applicant's agent confirmed that they would no longer challenge the necessity of the abovementioned contribution, and advised the case officer that they would commence the preparation of a Unilateral Undertaking. As reported within section 5 above, the Unilateral Undertaking was duly issued on 12 July 2011 which legally binds the owner of the site to pay the appropriate index linked sum of monies required prior to any commencement of works on site.

Recommendation: Refusal

For the following reason(s):

- 1 The proposed height, scale and design of the 6-unit terrace would be an excessive inappropriate form of development that would not offer a positive contribution to the surrounding heritage assets and instead, would be detrimental to the special character and appearance of the Conservation Area and to the setting of listed buildings, most notably Manvers House, contrary to PPS5 policies HE7.4-7.5 as well as failing to accord with adopted District Plan Policies H1, H24, C31a and criterion B of Policy C18.
- 2 By virtue of its height, siting and provision of habitable windows on the northern facing elevation, the proposed terrace would have a demonstrable and detrimental impact on the amenities and privacies enjoyed by neighbours, most notably No. 18 Silver Street, contrary to the provisions of adopted District Plan Policies C38 and H1 and the Council's adopted Residential Design Guide SPG.

Appendices:	
Background Documents Used in the Preparation of this Report:	



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REPORT TO THE WESTERN AREA PLANNING COMMITTEE

Date of Meeting	17.08.2011		
Application Number	W/11/01672/ADV		
Site Address	County Hall Bythesea Road Trowbridge Wiltshire BA14 8JN		
Proposal	2 Hoardings		
Applicant	Wiltshire Council / Mark Butt		
Town/Parish Council	Trowbridge		
Electoral Division	Trowbridge Central	Unitary Member:	John Knight
Grid Ref	385428 157571		
Type of application	Advertisement		
Case Officer	Mr Matthew Perks	01225 770344 Ext 15207 matthew.perks@wiltshire.gov.uk	

Reason for the application being considered by Committee

This is an application on behalf of the Wiltshire Council and a material objection has been received from the Trowbridge Town Council. In these circumstances under the scheme of delegation adopted on 12 July 2011 the matter must be referred to Committee.

1. Purpose of Report

To consider the above application and to recommend that consent is granted.

Neighbourhood Responses

None

Parish/Town Council Response

The Trowbridge Town Council objects to the proposal.

2. Report Summary

Since this is an application for consent to display advertisements, the only issues to consider relate to highway safety and amenity.

3. Site Description

The adverts would be located on a portion of the screening boundary to the refurbishment/re-development of County Hall in Trowbridge. Development is ongoing and blank screening hoardings are already in place.

4. Relevant Planning History

W/10/03933/REG3: Extension and remodelling of County Hall to consolidate Library services and Registry Office into the main campus: Permission : 06.04.2011

5. Proposal

This is an application for consent for panel signs to the boundary hoarding that screens the re-development of County Hall. The signs contain brief County promotional messages on solid coloured blocks under the Wiltshire Council logo, interspersed with full-panel colour photographs showing community/family scenes. The contractor name and site information and warning signs would occupy one-and-a-half panels. A total of nineteen-and-a-half 2.4m wide panels (including the "Transforming Trowbridge logo - see below) would be installed. The signs would all be within the limits of the existing hoarding boards, to a maximum height of 2.4m over the length between the intersection of the screening with the County Hall building on the western side of the redevelopment area and approximately half way across the staff car park frontage, a total run of approximately 48m, following the curvature of the hoarding. No illumination is proposed.

6. Planning Policy

West Wiltshire District Plan 1st Alteration (2004)

C24 Advertisements

National guidance

PPG19: Outdoor Advertisement Control

7. Consultations

Town/ Parish council

The Trowbridge Town Council has objected due to the content of the signs (lacking a relationship to the activity on site) and their "demonstrating insensitivity at a time of cuts". The Council is also of the view that this is a significant development and the "Transforming Trowbridge" logo should have been incorporated.

Highways

No objection

8. Publicity

The application was advertised by site notice.

Expiry date: 15.07.2011

No responses were received.

9. Planning Considerations

The proposed signage would be of a temporary nature advertising the County Hall re-development.

In noting the Trowbridge Town Council comments the applicants were approached and agreed to attach an additional "Transforming Trowbridge" logo. On the issue of the objection to the other content, consideration can only be given to highway safety and amenity. Sensitivity to current economic conditions is not considered to affect these factors.

The hoardings are not considered to be potentially harmful to amenity in this setting, where they would aesthetically enhance what are essentially featureless site boundary blank screens. No illumination is proposed, and highway officers are satisfied with the proposals.

Consent is recommended.

Although a 5 year period is being applied for, the signs would be temporary in the sense that they would be removed upon completion of the works. It is considered that a condition to this effect should be imposed.

Recommendation: Consent

For the following reason(s):

The proposed development conforms to the Development Plan and there are no objections to it on planning grounds.

Subject to the following condition(s):

- 1 The advertisements permitted by this consent shall not be displayed on the site after the date of completion of operations being undertaken under Planning Permission granted under Reference W/10/03933/REG3 or after 1 August 2016, whichever first occurs.

REASON: To ensure that the advertisements are removed at end of the limited period specified, in the interests of amenity and/or public safety.

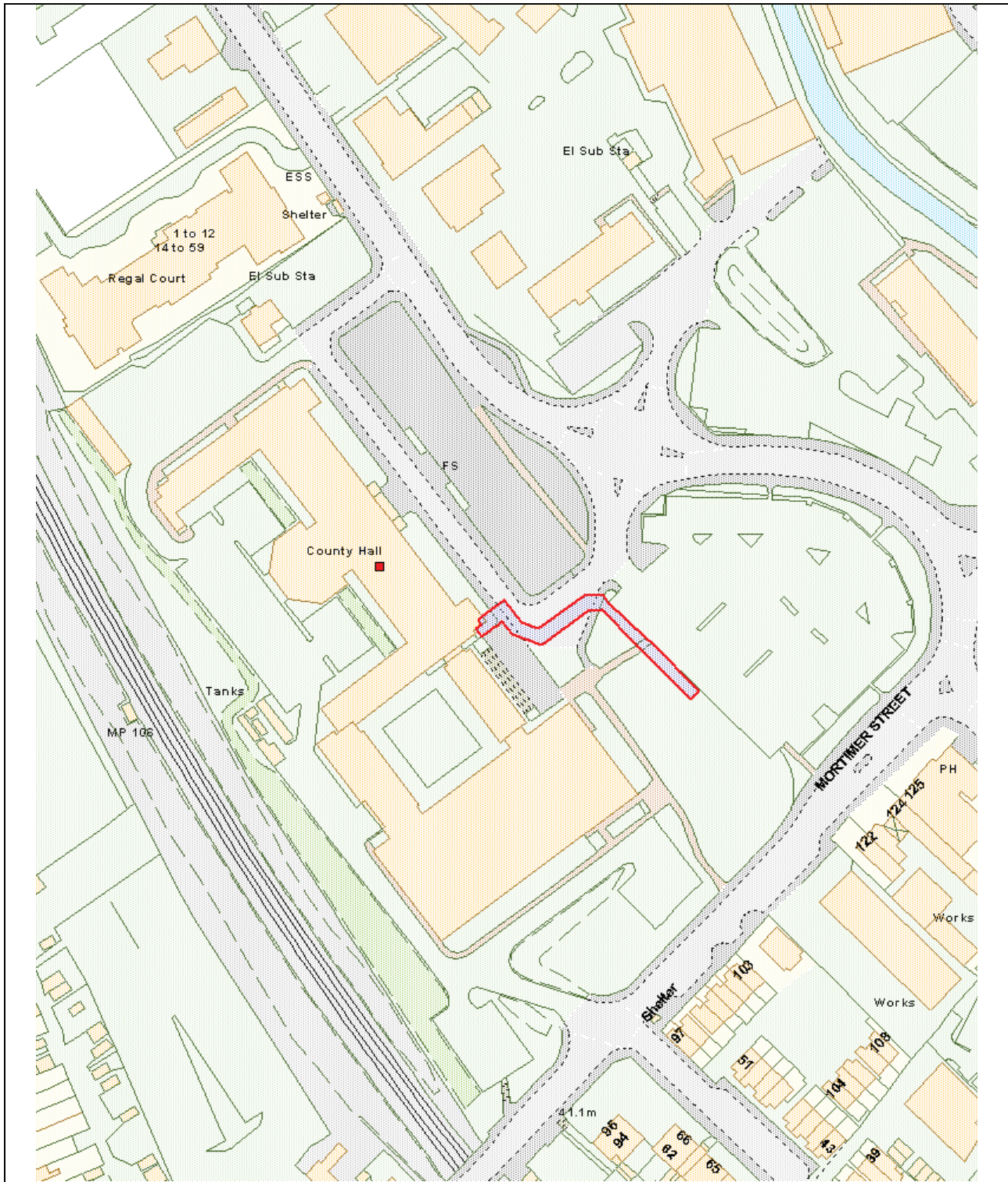
West Wiltshire District Plan 1st Alteration 2004 - POLICY: C24

- 2 The proposals shall be carried out in accordance with the following approved plans:

31405_P(0)020 received on 31 May 2011;
31405_P(0)022 received on 31 May 2011;
31405_P(0)045 received on 31 May 2011, as amended to include an additional panel containing the "Transforming Trowbridge" logo above the "Kier" logo in accordance with the plan attached to email Ref. 31405_C01_110712_County Hall Hoarding dated 12 July 2011.

REASON: In order to define the terms of this permission.

Appendices:	
Background Documents Used in the Preparation of this Report:	



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MSA: 100022961