

## AGENDA

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**Meeting:** Western Area Planning Committee  
**Place:** Council Chamber - Council Offices, Bradley Road, Trowbridge  
**Date:** Wednesday 28 September 2011  
**Time:** 6.00 pm

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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](mailto: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](http://www.wiltshire.gov.uk)

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### 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	

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### 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	

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# 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 7 September 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 21 September 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. Planning Applications

To consider and determine the following planning applications:

- 6.a **W/11/02014/FUL - Application to replace extant permission (reference W/07/03825/FUL - allowed on appeal) for the conversion of existing house to form two 1-bed flats and new build creating a further two 1-bed flats (Pages 11 - 20)**

<b>Site Location</b>	6 Summerdown Walk Trowbridge Wiltshire BA14 0LJ
<b>Development</b>	Application to replace extant permission (reference W/07/03825/FUL - allowed on appeal) for the conversion of existing house to form two 1-bed flats and new build creating a further two 1-bed flats
<b>Recommendation</b>	Approval
<b>Division Member</b>	Councillor Jeff Osborn
<b>Town / Parish Council</b>	Trowbridge

- 6.b **W/11/01460/FUL - Siting of temporary dwelling (3 years) for agricultural worker with package treatment plant and new access track (Pages 21 - 36)**

<b>Site Location</b>	Oak Tree Farm Os 6600 Great Chalfield Atworth Wiltshire
<b>Development</b>	Siting of temporary dwelling (3 years) for agricultural worker with package treatment plant and new access track

<b>Recommendation</b>	Refusal
<b>Division Member</b>	Councillor Mark Griffiths
<b>Town / Parish Council</b>	Atworth

6.c **W/11/01642/FUL - Change of use from A1 to A5 (Pages 37 - 42)**

<b>Site Location</b>	2 High Street Westbury Wiltshire BA13 3BW
<b>Development</b>	Change of use from A1 to A5
<b>Recommendation</b>	Approval
<b>Division Member</b>	Councillor Michael Cuthbert-Murray
<b>Town / Parish Council</b>	Westbury

7. **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.

## **WESTERN AREA PLANNING COMMITTEE**

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### **DRAFT MINUTES OF THE WESTERN AREA PLANNING COMMITTEE MEETING HELD ON 7 SEPTEMBER 2011 IN THE COUNCIL CHAMBER - COUNCIL OFFICES, BRADLEY ROAD, TROWBRIDGE.**

#### **Present:**

Cllr Trevor Carbin, Cllr Ernie Clark, Cllr Rod Eaton, Cllr Peter Fuller (Chairman),  
Cllr Mark Griffiths, Cllr John Knight, Cllr Christopher Newbury, Cllr Stephen Petty,  
Cllr Pip Ridout, Cllr Jonathon Seed and Cllr Roy While (Vice Chairman)

#### **Also Present:**

Cllr Malcolm Hewson and Cllr Francis Morland

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#### **78 Apologies for Absence**

There were no apologies for absence.

#### **79 Minutes of the Previous Meeting**

The minutes of the meeting held on 17 August 2011 were presented.

#### **Resolved:**

**To approve as a correct record and sign the minutes of the meeting held  
on 17 August 2011.**

#### **80 Declarations of Interest**

**W/10/03031/FUL** - Application to renew planning permission W/05/00744/FUL  
to allow time to submit reserved matters pursuant to reference 98/01149/OUT,  
Land West Of Biss Farm West Ashton Road West Ashton Wiltshire.

**W/11/01697/FUL** - Application to renew planning permission 05/00744/FUL to  
allow time to submit Reserved Matters pursuant to reference 98/01149/OUT,  
Land West Of Biss Farm West Ashton Road West Ashton Wiltshire.

Councillors Peter Fuller and John Knight declared a personal interest as  
members of the Trowbridge Town Council which had discussed the application

in the past. They gave their assurance that they would consider the applications with an open mind.

## 81 **Chairman's Announcements**

The Chairman informed the committee of the passing of Mr Frank Brine, who had often attended meetings of this committee or its predecessor, the West Wiltshire District Council planning committee.

## 82 **Public Participation**

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

## 83 **Planning Applications**

The Committee considered the following applications:

### **83.a W/10/03031/FUL - Application to renew planning permission W/05/00744/FUL to allow time to submit reserved matters pursuant to reference 98/01149/OUT**

Public Participation:

- Dr Kevin Eames spoke in objection to the application.
- Mr Nigel Williams spoke in objection to the application.
- Mr David Hutchinson, agent, spoke in support of the application.
- Mr Peter Westlake, West Ashton Parish Council, spoke in objection to the application.

Councillor Francis Morland, Unitary Councillor for Southwick, expressed his concerns about the application.

Officers introduced the report which sought approval.

The Head of Service : Sustainable Transport, Department of Neighbourhood & Planning attended the meeting to provide further information and answer any questions members of the committee may have with regards to the Transport Assessment. Following questions he confirmed that the proposed scheme would be broadly proportional to the impact of the proposed development, and that there would be no radical re-working of the existing junction but improvements to achieve as much capacity from the junction as possible.

During the ensuing debate members of the committee could not be satisfied that the proposed highways improvements would be sufficient when taking into

consideration all changes in circumstances since the original planning permission was given.

It was therefore

**Resolved:**

**That the renewal of planning permission be REFUSED**

**For the following reason:**

**There have been material changes in circumstances since the original planning permission was given, including the lack of the highway network as originally proposed.**

Councillor Peter Fuller asked for his vote against the motion to be recorded.

**83.b W/11/01697/FUL - Application to renew planning permission 05/00744/FUL to allow time to submit Reserved Matters pursuant to reference 98/01149/OUT**

Public Speaking:

- The objectors did not wish to add anything to what they had said with regards to the previous application on this agenda (W/10/03031/FUL).
- Mr David Hutchinson, agent, invited the committee to think about deferring consideration of this application following the committee's decision on application W/10/03031/FUL.
- Mr Peter Westlake, West Ashton Parish Council, asked for due consideration to be given to any conditions with regards to this application.

**Resolved:**

**To defer the application at the request of the applicant's agent.**

**83.c W/11/01563/FUL - Proposed industrial building to cover over existing open yard storage area**

Public Participation:

- Dr Leo Haylen spoke in objection to the application.
- Mr Paul Gibson spoke in objection to the application.
- Mr Michael Newberry spoke in objection to the application.
- Mr Rob Peck spoke in support of the application.
- Mr John Barberio spoke in support of the application.
- Mr Harry Grist, agent, spoke in support of the application.

Officers introduced the report which sought approval.

During the ensuing debate members of the committee expressed their understanding of the reasons given by both the objectors and supporters. However members of the committee felt that rural enterprises should be supported when compliant with planning regulations and that the proposed conditions, with an additional informative, should alleviate the objections raised.

**Resolved;**

**That planning permission be granted.**

**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 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. No development shall commence on site until details and samples of the materials to be used for the external walls and roofs have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

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

West Wiltshire District Plan 1st Alteration 2004 - POLICY: C31a.

3. The buildings shown as being demolished shall be removed prior to the construction of the proposed development.

REASON: To ensure that the volume of development on this part of the site is consistent with the proposal in the interests of visual and residential amenity.

POLICY: West Wiltshire District Plan 1st Alteration 2004 - C31a & C38.

4. The proposed development hereby approved shall be used solely for the storage of goods in connection with the primary activity on this site and shall not be used for any manufacturing, industrial or production purposes.

REASON: In the interests of residential amenity

POLICY: West Wiltshire District Plan 1st Alteration 2004 – C38

5. There shall be no external storage of materials or equipment within the rear yard in the northeast corner of the site.



REASON: In the interests of visual and residential amenity  
POLICY: West Wiltshire District Plan 1st Alteration 2004: C38

6. The proposed development shall be carried out in complete accordance with the Construction Method Statement Rev A dated 04 August 2011.

REASON: In the interests of the protection of protected species and their habitats.  
Planning Policy Statement 9; Biodiversity and Geological Conservation

7. The proposed development shall be carried out strictly in accordance with the Arboricultural Assessment and Method Statement with Addendum (NdeB/7010/A/2 dated March 2001; addendum August 2011) and under the supervision of an arboricultural consultant.

REASON: To prevent trees on, and adjacent to, the site being damaged during construction.  
POLICY: West Wiltshire District Plan 1st Alteration 2004 – C32

8. No development shall commence on site until details of any external lighting and mitigation measures to minimise light pollution from the proposed building have been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be put in place before the building is first brought into use and shall be maintained in accordance with the approved details.

REASON: To minimise light pollution and in the interests of the amenities of the area.  
West Wiltshire District Plan 1st Alteration 2004 - POLICY: C35 and C38

9. Construction work in connection with the development hereby permitted shall only take place between the hours of 0730 and 1800 on Mondays to Fridays and between 0800 and 1300 on Saturdays and at no time at all on Sundays and Bank or Public Holidays.

REASON: In the interests of residential amenity  
POLICY: West Wiltshire District Plan 1st Alteration 2004 - POLICY: C38

10. The proposed development shall only be carried out in complete accordance with the following plans and documents:  
09034-1 rev A received on 25.07.11  
09034-2 rev B received on 25.07.11  
Construction Method Statement rev A received on 04.08.11  
Arboricultural Assessment & Method Statement with Addendum received on 15.08.11

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

**Informative(s):**

1. The applicant is advised that Flood Defence Consent will be required from the Environment Agency for any works or structures within 8m of the top of the bank of the River Wylfe and Mill Stream. The applicant is therefore advised to consult the Agency (Daniel Griffin 01258 483351) with regard to this matter.

2. The applicant is advised that consideration should be given to the incorporation of flood proofing measures in the design and construction of the building, including barriers on ground floor doors, windows, and access points and locating electrical services and plugs above possible flood levels. Additional guidance can be found in the EA's publication 'Damage Limitation' (0845 988 1188 or [www.environment-agency.gov.uk](http://www.environment-agency.gov.uk)) and the DCLG publication 'Improving the flood performance of new buildings'.

3. The applicant is advised that in the event of any disturbance to the Mill Stream, he should contact the Council's Archaeologist prior to the continuance of any work

4. The applicant is advised to consider introducing additional landscaping to improve the appearance of the boundary wall and the area between the existing houses and the new building; and to consider installing sound insulation into the building to reduce any potential for noise pollution.

**83.d W/11/01826/REG3 - Planning permission for the retention of a single temporary unit with toilets (previous permission 04/00746)**

Public Participation:

- Mr Peter Hulvert spoke in objection to the application.
- Mr John Green spoke in objection to the application.

Officers introduced the report which sought approval.

Although members of the committee had some sympathy for the objectors, the objections raised by the public speakers could not be addressed by the Planning Committee or planning conditions. However members of the committee felt that the issues of off-site parking and access should be taken into account when the revised Green Travel Plan was produced, they also felt that three months was too short a timescale to produce the Green Travel Plan and amended condition 2 to reflect this.

**Resolved:**

**That planning permission 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 temporary mobile building hereby permitted shall be removed and the land restored to its former condition on or before 7 September 2016, in accordance with a scheme of work to be submitted to and approved by the Local Planning Authority.

REASON: Planning permission has been granted on a temporary basis to allow the Local Planning Authority to review the functional need for the mobile classroom at the end of the expiration of the period referred to.

POLICY: West Wiltshire District Plan - 1st Alteration Policy CF1.

2. That within 6 months of this temporary permission renewal being granted, the school shall submit a revised Green Travel Plan which should address the off-site parking and access complaints, including along The Gravel, and the associated impact on the residential amenity of residents of the Gravel, and obtain the written approval of the Local Planning authority, following consultation with the parish council, local residents and the highways authority. The Travel Plan shall include details of the implementation of any requisite access and parking improvements and monitoring. The results of the implementation and monitoring shall be made available to the Local Planning Authority on request, together with any changes to the Plan arising from the necessary ongoing monitoring.

REASON: In the interests of road safety, reducing neighbouring conflicts as well as encouraging parents to adopt alternative non-car based school journeys.

POLICY: West Wiltshire District Plan 1st Alteration policy CF1, C38 and T10.

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

LOCATION PLAN received on 13.06.2011

LOCATION, PLAN AND ELEVATIONS drawing no. 1237/57 Rev O received on 13.06.2011

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.

**83.e W/11/01224/FUL - Erection of single storey rear extension and installation of additional window in main property**

Public Participation:

- Mr Ian Bolden spoke in objection to the application.
- Mr Martin Newman, applicant, spoke in support of the application.
- Mr Nicholas Magniac, agent, spoke in support of the application.

Councillor Malcolm Hewson, Unitary Councillor for Bradford-on-Avon South, welcomed the opportunity for the application to be considered in a meeting open to the public, where both objectors and supporters would be able to express their views.

Officers introduced the report which sought approval. During the ensuing debate members of the committee could not be satisfied that the proposed extension impinged on the neighbours' privacy any more than the existing patio, however the committee felt that not allowing the glazed window to be opened would be helpful and amended condition 3 accordingly.

**Resolved:**

**That planning permission 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 materials to be used in the construction of the external surfaces of the development hereby permitted shall match in material, colour and texture those used in the existing building.

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

West Wiltshire District Plan 1st Alteration 2004 - POLICY: C31a.

3. No development shall commence on site until details of the obscure glazing to be used in the window in the north-east elevation of the extension, as annotated on the amended plans, has been submitted to and approved in writing by the local planning authority. The obscure glazing shall be installed as approved and the window shall be permanently fixed shut prior to the first occupation of the extension and shall thereafter be maintained as such.

REASON: In the interests of residential amenity and privacy.  
West Wiltshire District Plan 1st Alteration 2004 - POLICY: C38

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

Site Plan received on 04.04.2011

N/11 Rev B received on 04.04.2011

N/12 Rev B received on 04.04.2011

N/13 Rev C received on 04.04.2011

N/14 received on 04.04.2011

N/15 Rev B received on 04.04.2011

N/16 received on 04.04.2011

N/17 received on 04.04.2011

N/18 received on 04.04.2011

N/19 received on 04.04.2011

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.

#### 84 **Urgent Items**

There were no Urgent Items.

(Duration of meeting: 6.00 - 9.10 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](mailto:marie.gondlach@wiltshire.gov.uk)

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

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## REPORT TO THE WESTERN AREA PLANNING COMMITTEE

<b>Date of Meeting</b>	28.09.2011		
<b>Application Number</b>	W/11/02014/FUL		
<b>Site Address</b>	6 Summerdown Walk Trowbridge Wiltshire BA14 0LJ		
<b>Proposal</b>	Application to replace extant permission (reference W/07/03825/FUL - allowed on appeal) for the conversion of existing house to form two 1-bed flats and new build creating a further two 1-bed flats		
<b>Applicant</b>	Mr M Ledbury		
<b>Town/Parish Council</b>	Trowbridge		
<b>Electoral Division</b>	Trowbridge Grove	<b>Unitary Member:</b>	Jeff Osborn
<b>Grid Ref</b>	385190 156073		
<b>Type of application</b>	Full Plan		
<b>Case Officer</b>	Mr Philip Baker	01225 770344 Ext 15286 philip.baker@wiltshire.gov.uk	

### Reason for the application being considered by Committee

With officer minded to accept this application, Councillor Osborn has requested that this item be determined by Committee due to:

- \* Scale of development
- \* Visual impact upon the surrounding area
- \* Relationship to adjoining properties
- \* Design – bulk, height, general appearance
- \* Environmental or Highway Impact
- \* Car parking

Other

The conversion and extension of this house into flats is totally out of keeping from the neighbourhood. It will severely impact on neighbouring properties and affect local amenities.

### 1. Purpose of Report

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

Neighbourhood Responses

7 letters of representation were received.

Town Council Response

There is an objection – Received 9/8/2011

The development will be out of keeping with the character of the area and exacerbate parking problems.

## **2. Report Summary**

The sole issue is whether there has been any material change in circumstances which would indicate a need to re-visit the decision in respect of application 07/03825/FUL.

That permission was for conversion of existing house into two one bedroom flats and new build creating a further two one bedroom flats. Although recommended for permission, it was subsequently refused by the Council for the following reasons

- 1 The proposal by reason of its design and in particular its relationship with neighbouring properties would have a detrimental impact on residential amenity contrary to Policy C38 of the West Wiltshire District Plan First Alteration 2004.
- 2 The proposed conversion of the existing dwelling would give rise to an unreasonable and over intensive sub-division of an inadequately sized property which is compounded by the inadequate provision of car parking and is therefore contrary to Policy H16 of the West Wiltshire District Plan First Alteration 2004.

However, it was granted on appeal (Attached at the end of the report) in August 2008 subject to a number of conditions.

## **3. Site Description**

The application site forms a roughly rectangular site in 6, Summerdown Walk which is located within town policy limits.

To the north-west of the site, there is vehicular access to the rear of the property from Summerdown Walk. There is a free-standing concrete garage within the curtilage which is accessed from the highway.

The north-east of the site represents the boundary between no. 5 and no 6 Summerdown Walk.

The south-east boundary of the site faces a pedestrian pathway, which runs through the estate.

The south-west boundary of the site runs alongside a pedestrian pathway which leads through to Langley.

## **4. Relevant Planning History**

07/03017/FUL – Withdrawn – 19/10/2007 – Conversion of existing house to two flats and new build creating two further flats

07/03825/FUL – Refusal – 4/2/2008 – Conversion of existing house into two onedroom flats and new build creating a further two one bedroom flats

08/00037/Appeal – Allowed – 6/8/2008 – Conversion of existing house into two one bedroom flats and new build creating a further two one bedroom flats

## **5. Proposal**

The proposal is to convert the a semi detached house into two one bedroom flats and new build creating a further two one bedroom flats

This proposal had previously been permitted under 07/03825/FUL by the Planning Inspector on appeal dated 6th August 2008.



## 6. Planning Policy

Government Guidance

PPS3 - Housing

West Wiltshire District Plan - 1st Alteration

C31a

- Design

C32 - Landscaping

C38 - Nuisance

H1 - Further Housing Development within Towns

H16 - Flat conversions

U1a - Foul Water Disposal

U2 - Surface Water Disposal

Supplementary Planning Guidance

Residential Design Guide (adopted November 2005)

## 7. Consultations

### Melksham Town Council

Objection received 9/8/2011

The Town Council objected to this application on the following grounds:

- The development will be out of keeping with the character of the area and exacerbate parking problems.

### Highways Authority

Comments received 28/7/2011

Sufficient parking provision has been provided for the conversion of this 3 bedroom into 4 on bed flats. Whilst, the existing access will become a shared access, it's width has not been increased to accommodate this intensification. Despite this, the access is served directly off a residential cul de sac and as my colleague previously raised no Highway objection, I adhere to this position and I recommend that no Highway objection is raised.

### Wessex Water

No objection - Comments received 21/7/2011

The development is located within a sewerage area, with foul and surface water sewers.

The developer has not indicated how he proposes to dispose of surface water.

## 8. Publicity

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

Expiry date: 12th August 2011

Summary of points raised:

7 letters of representation was received raising the following points:

- Out of keeping with the surrounding area – It is made up with predominately semi-detached dwellings and two small terraces
- Would overload the existing drainage system
- Further congestion on the roads from additional dwelling that are created
- Access is very narrow to a corner plot
- Hedges have been removed and replaced with a fence
- Loss of a family home for the area
- Increased parking space in garden is out of character with the area
- Loss of garden area which reduces surface water runoff.

## **9. Planning Considerations**

This application is for an extension of time for the implementation of permission 07/03825/FUL which was for the conversion of an existing house into two one bedroom flats and a new build creating a further two one bedroom flats.

The assessment of whether there has been a material change in circumstances since that decision was made incorporates two separate elements (a) the Development Plan and (b) the physical circumstances of the application site and/or its surroundings.

### **(a) The Development Plan**

The original application was considered within the framework of the West Wiltshire District Plan 1st Alteration 2004.

The District Plan remains as the adopted local plan and since all of the subsequent policies and guidance are substantially the same in terms of objectives, this would not require the decision to be revisited in terms of the development plan.

### **(b) Site and surroundings**

There has been no material change in either the site or surroundings of the application site.

### **Conclusion**

There has been no material change in either the development plan or the site and its surroundings, and no other consideration which would require the Council to revisit the appeal decision 07/03825/FUL. A further renewal of permission is therefore recommended.

**Recommendation:        Permission**

### **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 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 No development shall take place until details of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

REASON: To ensure that the development harmonises with its setting.

POLICY: West Wiltshire District Plan - 1st Alteration 2004 - Policy C31A.

- 3 No development 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. These details shall include details of those trees and hedges to be retained and the means for protecting them during construction; means of enclosure and the surfacing materials to be used in construction of the approved access, parking spaces, turning area, pedestrian circulation areas and patio. The works shall be carried out as approved and completed prior to first occupation of any of the flats hereby permitted or in accordance with a timetable to be agreed in writing by the local planning authority.

REASON: To provide a satisfactory landscaped setting for the development

POLICY: West Wiltshire District Plan – 1st alteration 2004 – Policy C32

- 4 The approved parking spaces and turning area shall be kept free from obstruction and retained for their intended purpose thereafter.

REASON: To ensure that an adequate area for parking and/or servicing is available in the interests of highway safety.

- 5 None of the flats shall be occupied until works for the disposal of sewerage and surface water on site have been provided in accordance with details to be submitted 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 2004 - Policy U1A.

- 6 Demolition or construction works and deliveries to and from the site shall not take place outside 0800 hours to 1730hours Monday to Fridays and 0800 hours to 1400 hours on Saturday and shall not take place at any time on Sundays or public holidays.

REASON: To minimise the disturbance to neighbouring amenities.

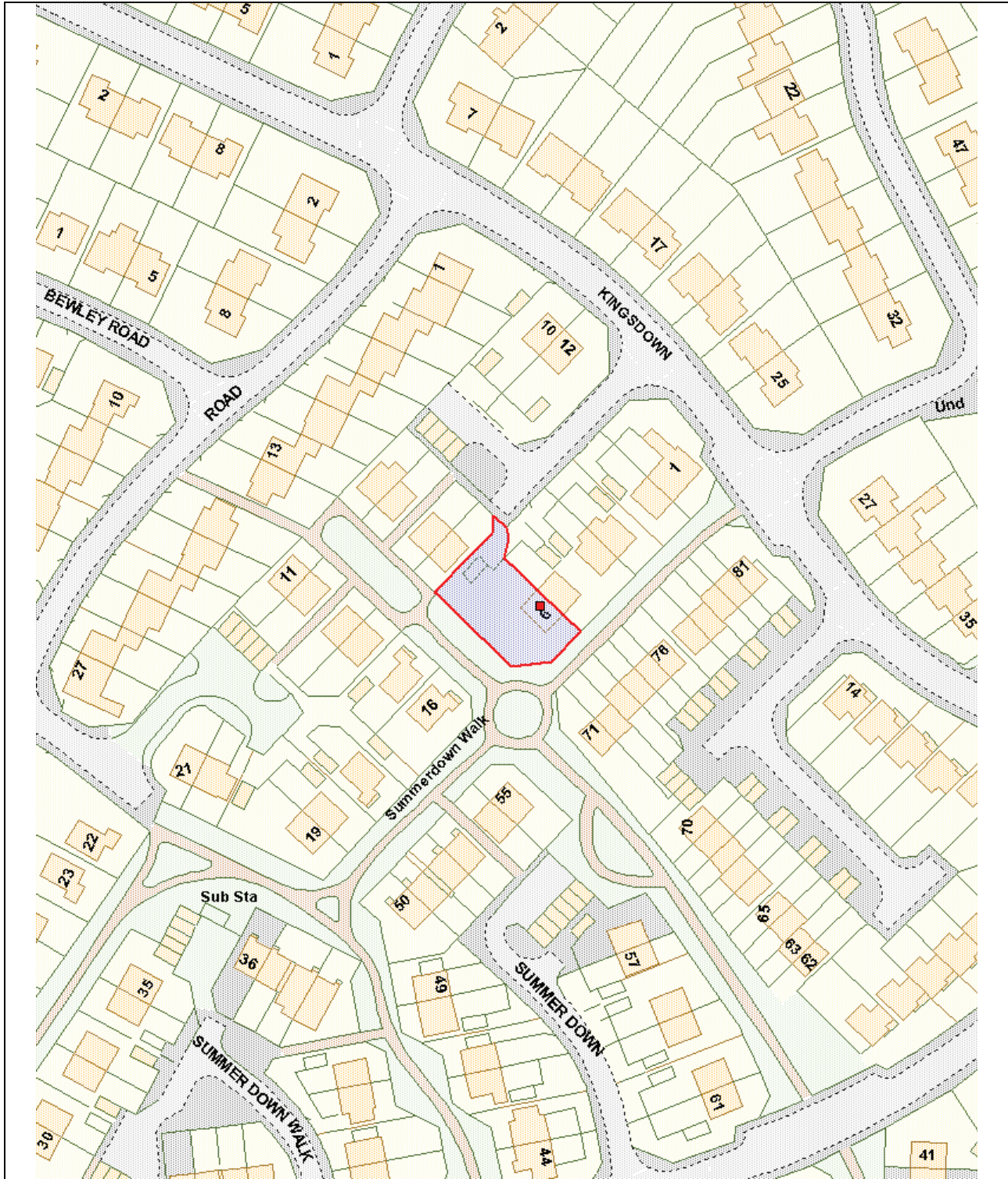
West Wiltshire District Plan 1st Alteration 2004 – Policy C38

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

Plan 653-03 received on 11/7/2011

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

<b>Appendices:</b>	
<b>Background Documents Used in the Preparation of this Report:</b>	



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MSA: 100022961



# Appeal Decision

Site visit made on 29 July 2008

by **Clive Kirkbride BA(Hons) DipTP MSc MRTPI**

an Inspector appointed by the Secretary of State  
for Communities and Local Government

The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN

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Decision date:  
**6 August 2008**

**Appeal Ref: APP/F3925/A/08/2073125**

**6 Summerdown Walk, Trowbridge, Wiltshire, BA14 0LJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr M Ledbury against the decision of West Wiltshire District Council.
- The application Ref 07/03825/FUL, dated 4 December 2007, was refused by notice dated 31 January 2008.
- The development proposed is conversion of existing house into two one bedroom flats and new build creating a further two one bedroom flats.

## Decision

1. I allow the appeal, and grant planning permission for conversion of existing house into two one bedroom flats and new build creating a further two one bedroom flats at 6 Summerdown Walk, Trowbridge, Wiltshire, BA14 0LJ in accordance with the terms of the application, Ref 07/03825/FUL, dated 4 December 2007, and the plans submitted with it, subject to the conditions set out in the attached Schedule.

## Main issues

2. I consider that there are three main issues: The effect of the proposal on the character and appearance of both no.6 and its matched pair and the surrounding area; its effect on living conditions of future occupants and at neighbouring properties, with particular reference to the proposed standard of accommodation, overlooking and noise and disturbance, and its effect on highway safety.

## Reasons

3. The appeal dwelling is a three bedroom, semi-detached house on an estate of houses of broadly similar appearance. No.6 occupies a large, corner plot well screened by a tall conifer hedge and has vehicular access at the rear from the head of a cul-de-sac. The large rear curtilage includes a lean-to car port against a garage with space on the driveway to park two cars.
4. The proposal is to convert the existing dwelling into two flats, extend at the side to provide further two flats and remodel the rear curtilage to provide a patio across the rear of the building, on-site parking and turning space for four cars, bin storage and landscaping.

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### ***Character and appearance***

5. Externally the appeal dwelling would remain the same, with the new build attached at the side and set flush with the existing front elevation. It would be the same height as, and similar in size to no.6 and constructed in matching materials, albeit with the addition of a new front entrance and porch.
6. The Council's supplementary design guidance advises that extensions to existing dwellings should be subservient. However, the proposal would create the impression of being an end-of-terrace house, rather than an extension. Although there would be some loss of symmetry, there is a variety of house types and sizes in the immediate area, including short terraces, and I do not consider that this to be reason alone to warrant a refusal of permission.
7. Sufficient space would be retained at the side of the proposed new build to ensure that the proposal would not look cramped or otherwise harm the spacious quality of the area. Much of the existing screening to the front and side boundaries would also be retained.
8. Consequently, I conclude that the proposal would not harm the character and appearance of the existing pair of houses or the surrounding area, and would not conflict with either policy C31a or the relevant provisions of policy H16 of the West Wiltshire District Plan First Alteration 2004 (LP).

### ***Living conditions***

9. There is no evidence before me to indicate that the proposal would result in over-intensive sub-division of no.6, even though this is central to the Council's case. The proposed new build flats would be of a similar size and I note that the Council has not suggested these would be inadequate. Future occupants would also have access to a shared outdoor amenity space which, although small, would be adequate to meet their needs.
10. Nor has the Council provided any evidence to support its reason for refusal that the proposal would have a severe adverse impact on the amenity of occupiers of neighbouring dwellings. No.4 is some distance from the appeal site and would not be adversely affected by the proposal, yet it is specifically referred to by the Council, and there would be no increase in overlooking towards the rear of no.5.
11. The proposal provides for the same number of cars to be parked on site as at present and a number of other houses in the same row also have off-road parking at the rear. Therefore, I do not consider the proposal would result in such an increase in noise and disturbance from the coming and going of cars as to harm living conditions at adjoining houses.
12. Therefore, I conclude that as the proposal would neither harm living conditions of future occupants or at neighbouring houses it would not conflict with LP policy H16.

### ***Highway safety***

13. The proposed level of parking provision was agreed with the County Highway Authority which considers this to be adequate to serve the needs of the proposal. The provision of on-site turning space would also improve highway

safety, as cars cannot currently enter and leave the site in a forward gear. The Council, on the other hand, has not provided any evidence to support its claim that the level of on-site parking proposed would be inadequate.

14. From the evidence before me, I am satisfied that the proposed level of parking provision would be adequate to serve the needs of the proposal and would not result in any harm to highway safety. Therefore, I conclude that the proposal would comply with LP policy H16 in this respect.

**Other matters and conditions**

15. Concerns have been raised locally that the proposed flats would be inappropriate in an area of predominantly family houses. However, the proposal is in line with the government's strategic housing policy objectives to achieve a wide choice of homes, to improve housing affordability and to create sustainable, inclusive, mixed communities.
16. There are also concerns about drainage capacity in the area. The appellant would need to obtain permission from the other owners to connect to the private sewer serving the site and a condition can also be imposed to control the proposed means of drainage.
17. I have considered the conditions suggested in the light of advice set out in Circular 11/95. In addition to a need to control drainage, conditions relating to external materials and hard and soft landscaping, including the retention of existing trees and hedges and proposed boundary treatments, are necessary in the interests of appearance. The suggested condition does not refer to the protection of retained trees and hedges during construction but I consider such a clause to be necessary, given the proximity of some ground works to the site's boundaries.
18. Conditions relating to surfacing materials for the approved access, parking and turning areas and the retention of these areas for their intended use are necessary in the interests of highway safety. A standard working hours condition would also be appropriate, as noted by the Council, in view of the close proximity of surrounding houses.

*C.S.Kirkbride*

INSPECTOR

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7 - AUG 2008

#### SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) No development shall take place until details of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 3) No development 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. These details shall include details of those trees and hedges to be retained and the means for protecting them during construction; means of enclosure and the surfacing materials to be used in construction of the approved access, parking spaces, turning area, pedestrian circulation areas and patio. The works shall be carried out as approved and completed prior to first occupation of any of the flats hereby permitted or in accordance with a timetable to be agreed in writing by the local planning authority.
- 4) The approved parking spaces and turning area shall be kept free from obstruction and retained for their intended purpose thereafter.
- 5) None of the flats shall be occupied until works for the disposal of sewage and surface water on site have been provided in accordance with details to be submitted to and approved in writing by the local planning authority.
- 6) Demolition or construction works and deliveries to and from the site shall not take place outside 0800 hours to 1730hours Mondays to Fridays and 0800 hours to 1400 hours on Saturdays and shall not take place at any time on Sundays or public holidays.



## REPORT TO THE WESTERN AREA PLANNING COMMITTEE

<b>Date of Meeting</b>	28.09.2011		
<b>Application Number</b>	W/11/01460/FUL		
<b>Site Address</b>	Oak Tree Farm Os 6600 Great Chalfield Atworth Wiltshire		
<b>Proposal</b>	Siting of temporary dwelling (3 years) for agricultural worker with package treatment plant and new access track		
<b>Applicant</b>	Janet Kennedy		
<b>Town/Parish Council</b>	Atworth		
<b>Electoral Division</b>	Melksham Without North	<b>Unitary Member:</b>	Mark Griffiths
<b>Grid Ref</b>	386636 164052		
<b>Type of application</b>	Full Plan		
<b>Case Officer</b>	Mr Kenny Green	01225 770344 Ext 15174 kenny.green@wiltshire.gov.uk	

### Reason for the application being considered by Committee

Councillor Griffiths has requested that this item be determined by Committee for the following reasons(s):

To encourage diverse farming in the countryside, if officers are minded to refuse the application.

### 1. Purpose of Report

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

Neighbourhood Responses

Two letters of support

Five letters of objection

Parish Council Response - Supports application subject to conditions.

### 2. Report Summary

The main issues to consider are:

Justification for an agricultural workers mobile home in open countryside

Impact on heritage assets / the open countryside

Servicing and road safety interests

### **3. Site Description**

The application site forms part of an existing 12 hectare DEFRA registered agricultural holding known as Oak Tree Farm, which is located about 0.5 Kilometres (as the crow flies) from the defined village boundary of Broughton Gifford, and is therefore within the open countryside. The holding is set back about 150 metres from the road which leads to Great Chalfield Manor, which is located about 1 kilometre to the south west of the application site. Due to heavily planted field boundaries and natural topography, no part of the Grade 1 Listed Manor is visible from Oak Tree Farm.

The farm is located south-west of Broughton Gifford less than 1 mile by road. There is a network of public right of way paths within the surrounding area, but none run through the Oak Tree Farm holding and the closest path is approximately 240 metres distant with only fleeting glimpses of the site through heavily planted hedgerows.

There are four timber shelters sited within the fields which appear to serve as shelters for the alpacas, which could also be used for storage purposes. In addition, the holding has four timber loose boxes, occupied at the time of the site visit by horses, a traditionally constructed open fronted shed and two-bay shed, constructed with a steel frame which is used for storage purposes and a polytunnel.

The holding has been sub-divided into 5 paddocks using post and netting fences to form the grazing areas for breeding females, entire males and for weaned young alpacas.

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

00/01289/FUL - general purpose farm buildings and stable block - Permission 01.06.2001

### **5. Proposal**

Under this application, the applicant seeks planning permission to site a 18.3 m x 6.8 m timber clad 3-bed mobile home for a temporary period for three years on land immediately to the south of an existing polytunnel and part of a cluster of buildings at Oak Tree Farm, which is an operating alpaca enterprise. The mobile unit would be for the owner and alpaca farmer to occupy. The proposed unit would be about 4 metres in height and would be accessed off the existing hardcore track. A private package treatment plant is also proposed to service the mobile unit.

The applicant currently resides at 48 The Common, a property located less than a mile away within the village of Broughton Gifford. There are no dwellings on the agricultural holding and it is accepted that there are no buildings currently on site, suitable for residential conversion.

In support of this application, the applicant and her agent have submitted a Design \_ Access Statement, a Planning Statement and an Agricultural Appraisal. The applicant's vet has also submitted a letter of support claiming that "it is essential that a person responsible for the care [of alpacas] is permanently resident on site".

The alpaca enterprise at Oak Tree Farm has been operating for nearly two years (although the applicant does acknowledge that "it takes between 3-5 years to establish a full time viability enterprise". The farm currently has 11 females, 8 of which are pregnant and 4 stud males on the holding. The applicant suggests that the holding could accommodate up to 150 alpacas, however the intention is to expand the enterprise to 40-50 alpacas, and "make it one of the larger alpaca breeding and rearing units in the UK". A stud service is also proposed, using home bred grey/black fibre producing males.

The applicant submits that it is essential for good animal husbandry and on site security reasons for her to reside on site. It is claimed that the alpaca enterprise has a 12 month essential functional need for on-site residential accommodation as alpacas calve all year round, producing highly valuable crias. Although relatively healthy and hardy animals, they can panic when confronted with dogs and stress, which can cause them to reabsorb their foetus. The applicant further submits that the enterprise is now becoming difficult to manage without being resident on site. In 2010, one cria was

found dead in the field in the morning. Had there been a house on site, the applicant claims this loss may not have happened.

As part of the supportive statements, the applicant's agent has made reference to an appeal case in the Cotswolds in 2002 which related to a 1.5 hectare holding with 20 breeding alpacas, and that the appeal for a supervisory dwelling was allowed.

## 6. Planning Policy

Government Guidance

PPS1 - Delivering Sustainable Development  
PPS3 - Housing  
PPS5 - Planning for the Historic Environment  
PPS7 - Sustainable Development in Rural Areas  
PPS10 Planning for Sustainable Waste Management  
PPG13 Transport

West Wiltshire District Plan - 1st Alteration

C1 - Countryside Protection  
C4 - Landscape Setting  
C6a - Landscape Features  
C31a - Design  
C32 - Landscaping  
C35 - Light Pollution  
C38 - Nuisance  
H17 - Village Policy Limits  
H19 - Development in Open Countryside  
H24 - New Housing Design  
T10 - Car Parking  
T12 - Footpaths and Bridleways  
U1a - Foul Water Disposal  
U2 - Surface Water Disposal

## 7. Consultations

Parish Council - Supports subject to the following conditions:

That the temporary dwelling remains single storey and that there is a 3 year limit on its siting and that it is not sub-let.

Highways - In normal circumstances, would wish to raise a highway objection to a proposed dwelling in the countryside. However, if the Council is satisfied that an agricultural dwelling is justified in operational terms, no highway objection would be pursued, subject to planning conditions.

Wessex Water - No comments.

English Heritage - The application should be determined in accordance with national and local policy guidance and on the basis of your own conservation advice.

Environment Agency - Informative(s) recommended if a new septic tank/treatment plant system is the only feasible option for the disposal of foul water, or if there is an increase in effluent volume into an existing system.

**Fisher German/Esso** - Esso Petroleum Co Ltd does have apparatus situated near the proposed works, however Esso does not wish to object to the application. providing the applicant/developer adheres to the produced "Special Requirements for Safe Working" booklet and the covenants contained in the deed of grant.

The Council's Agricultural Advisor - Has assessed the application in relation to the two tests set out in PPS7. These are a financial test (Has the business has been planned on a sound financial basis?) and the functional need (is there a need for a worker to be readily available at most times and if so, can this need be met by other accommodation in the area?).

On the first test, he concludes that there is evidence that the business has been planned on a sound financial basis , although this is dependent on the current high value for breeding stock and the level of sales is predicated on the continuance of the current high value of breeding stock.

On the second test, he concludes that the functional need is partial and that this need can be managed from the applicant's existing dwelling. He points out that this view was supported in a recent planning appeal on a similar alpaca enterprise at Mudmead Stables, Steeple Ashton in November 2009. In sum, he concludes that the functional need for a dwelling on the holding is not met.

A copy of the appeal decision at Mudmead is attached as an appendix to this report.

## **8. Publicity**

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

Expiry date: 10.06.2011

Summary of points raised:

Two letters of support raising the following points:

Has known applicant for over 6 years.

Applicant is considerate and thoughtful with all aspects of her business, neighbours and land.

It is essential that the applicant resides on the land holding to carry out the daily duties of running a farm.

It is a practical and worthy application.

The breeding of alpacas represents an important positive contribution to the revival of agricultural activity and employment which has been in decline.

Five letters of objection received raising the following points:

Alpaca enterprises are a well known ploy to obtaining planning permission in otherwise protected countryside/green belt. As a journalist, I have investigated the alpaca industry and have many examples when they have been used as a pretext to obtain planning permission on protected/green belt land.

This application for a temporary dwelling is not a sound plan. We work hard to enhance and maintain the landscape around the Manor and this is a step in the opposite direction. It will have an adverse effect on public enjoyment. I have over 30 years farming experience, a dwelling at this site is not necessary. I recall that when Mr Rawlings operated a dairy smallholding on this site he lived in the village like the applicant. This seems a better, more appropriate solution.

As someone with 30 years experience in farming, there is no necessity for a house to be located on this site. When Mr Rawlings operated a dairy on the land holding he lived in the village, as does the applicant.

Great Chalfield Manor attracts thousands of visitors a year from across the world, as well as locals who walk or cycle through the estate. All of them value the rural tranquillity and unspoilt landscape of the Manor's immediate surroundings and therefore any development should be viewed with concern.

The proposal for a three/four bedroom "log cabin", packaging plant and associated track to join the drive to the manor would be a major visual intrusion into the fieldscape. The cabin is far larger than the requirements of an "agricultural worker" who could be easily accommodated in a caravan, as happens on the farm where I live.

What powers does the planning committee have to impose restrictions on the applicant? In previous cases the change from permission for a "temporary" to a permanent dwelling has been little more than a formality if the business is still extant after three years. Can the committee impose restrictions that would ensure this would never happen here?

There is a covenant on the land which states that "no planning consent should be applied for residential use" without the consent of the vendor - RC Floyd of Great Chalfield Manor. It is further understood that such consent has not been obtained. The covenant was imposed to preserve the character of the drive leading to the 14th Century Great Chalfield Manor House. The landholding is also subject to a National Trust covenant.

The proposed site and drive and parking area is sited close to an Esso gas pipeline.

There is currently no real market for the fibre in this country and the value of the animals has declined significantly so they are no more prone to rustling than any other livestock. Any responsible owner will know when their animals are due to calve so provision can be made to have someone on site if that is felt necessary. I am not suggesting the current applicant is using these animals as a stalking horse for this or further development but many of the arguments justifying the need for such substantial accommodation are incorrect.

I hope the committee will seek the views of the National Trust, English Heritage and the CPRE who should all have an interest in preserving the Great Chalfield estate. The committee should also consider that once permission of this nature is granted it will be very difficult to ever restore the site to its original unspoilt character.

The site is on top of a hill and a temporary dwelling, which may become permanent in due course, would erode the rural character of the area. As owners of the Manor, we work hard to enhance and maintain the character of the landscape for the long term future. This proposal would be a step in the wrong direction.

This proposal may affect views from the public road to the Manor, which is designated as a Parkland by English Heritage, and is enjoyed by many walkers from the lodge, the footpath network and the village of Broughton Gifford.

**The National Trust** - Owns Great Chalfield Manor which attracts 28,888 visitors per annum. We have covenants over the land immediately to the south of the site that is the subject of this proposal and our ownership includes fields immediately to the south of that. We also own the roadway and verges to the west of the site. The avenue line of Edwardian oak trees on the applicant's land is designated as parkland by English Heritage.

The Trust is opposed to this application as we feel that once planning permission is granted for a temporary dwelling, it will not be difficult for the applicants to get full planning permission for a permanent dwelling on this site. This is contrary to Policy C1 which states that development proposals in the open countryside will not be permitted except in certain circumstances. We do not feel that the reasons given justify the damage this proposal will do to this open countryside. The development is likely to erode the rural character of the area. There is also the danger that if planning permission is granted for this dwelling, this will set a precedent creating a cumulative effect leading to more applications of this nature for dwellings on small plots of agricultural land.

Policy C6a states that development which would have an adverse effect on the District's characteristic landscape features will only be permitted if the planning benefits of the proposal outweigh the harm. Historic parklands are included on this list and we consider that policy should apply here since the proposal affects the setting of Great Chalfield Manor, a grade 1 listed property.

Policy H17 concerns Village Policy Limits which are defined for Broughton Gifford. This proposal is not within the limits of this village and should not therefore be allowed.

Policy H18 states that it is important to protect open spaces within villages from any development which would be detrimental to the character of the settlement. This proposal is outside the village and so the site should be given even greater protection from development.

Policy H19 states that new dwellings in the open countryside will not be permitted unless justified in connection with the essential needs of agriculture. We do not feel that the proposal fully justifies the need for a dwelling. A former occupant of this land, Mr Rawlings apparently lived within the nearby village despite operating a dairy small holding on this land until about 1960. The proposed farming enterprise with alpacas is unlikely to be viable. The applicant argues that there is a need for a dwelling in order to be able to look after the alpacas. The Trust feels that the applicant should in fact have looked to put her alpacas on a more suitable site where there was already a house. The alpacas do not need to be kept on this particular site. Planning permission should be refused on the grounds of conflict with planning policy, impact on the landscape/ setting of Great Chalfield, non viability of the farming enterprise and need to be on site rather than remaining in the village where this land is traditionally managed from.

## **9. Planning Considerations**

### **Justification for an agricultural workers mobile home in open countryside**

PPS7 provides clear advice on how applications for agricultural dwellings should be treated. It recognises that there are cases in which the demands of farming make it necessary and essential for one or more persons to live at or very close to the site of their work. Whether this is essential in any particular case will depend on the needs of the farm enterprise concerned.

A temporary dwelling (i.e. a caravan or a wooden structure which can be easily removed) should satisfy the following criterion:-

1. providing clear evidence of a firm intention and ability to develop the enterprise concerned (significant investment in new farm buildings is often a good indication of intentions);
2. proving a functional need;
3. providing clear evidence that the proposed enterprise has been planned on a sound financial basis;
4. satisfying the Council that the functional need could not be fulfilled by another dwelling on the unit, or any other existing accommodation in the area which is suitable and available for occupation by the workers concerned; and,
5. other normal planning requirements, e.g. on siting and access, are satisfied.

It is understood that alpacas require sensitive management; and as noted above, alpacas are identified as having considerable value for breeding purposes and for their fibre. Livestock welfare and security are therefore important considerations. However, it cannot be ignored that Paragraph 12 (4) of Annex A of PPS7 states that any proposed temporary agricultural dwelling proposal must meet financial and functional tests, which cannot "be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area which is suitable and available for occupation by the workers concerned..." PPS7 also requires any applicant wishing to erect new housing in the open countryside to satisfy the Council that there is a clear functional need "to establish whether it is essential for the proper functioning of the enterprise for one or more workers to be readily available at most times..."

PPS7 also states within paragraph 13 of Annex A that the Council, as the local planning authority "should not normally give temporary permissions in locations where they would not permit a permanent dwelling".

In consideration of the above listed criterion (as defined within paragraph 12 of PPS7 Annex A), members are advised that:

The applicant has demonstrated a clear and firm intention and ability to develop the existing alpaca enterprise. In forming this view, the Council acknowledges the content of paragraphs 4.2-4.4 of the submitted Agricultural Appraisal. The applicant has also presented a business plan that would achieve a level of profit in excess of the minimum wage within 3 years (during 2013), after having produced decreasing losses during 2011-2012. It should however be recorded that the financial tests

would only be met if the alpaca high values continue. Should they fall, the business would be vulnerable.

As outlined within section 7 above, the Council's expert agricultural advisor advises that the proposed development fails to fully satisfy the functional test, which is a fundamental requirement as enshrined within PPS7.

Officers have fully considered the applicants/agent's supporting comments, and whilst the loss of any animal is to be deeply regretted, this alone cannot justify the siting of a house in the open countryside. PPS7 covers this matter within paragraph 6 of Annex A. It is noted that the British Alpaca Society and alpaca breeders make pertinent comments regarding alpacas being "easy to keep", "hardy and healthy animals that suffer from very few health problems". However, like any livestock, on occasion "they can be subject to ill health and disease". Nationally, it is widely recognised that a regular daily programme of inspection is essential. It is also duly noted that alpaca births cannot be reliably predicted, as the gestation period for cria is variable, and that alpacas often disguise health or breeding problems. Having carefully assessed the applicant's justification and considered the expert agricultural advice provided by the Council's Agricultural Consultant, it is considered that there is not an essential need for someone to be living on site at Oak Tree Farm.

Officers recognise the risks associated to rural farm holdings, and note the highlighted break-in's and damage to property. As argued in response to defending the planning appeal relative to Mudmead Stables, the Council stressed that any rural business / site could be better protected from criminal intent by introducing a CCTV system, linked direct to the Police. Paragraph 6 of Annex A recognises that the protection of livestock from theft or injury by intruders may contribute to the need for an on-site agricultural dwelling, although it would not in itself, be sufficient to justify one. On the basis of the evidence submitted by the applicant and her agent, it is submitted that the applicant could reduce the risk of crime with introducing a CCTV system and making the site more secure. It should furthermore be duly acknowledged that unlike the case with Mudmead Stables, there are no public rights of way through the Oak Tree Farm holding, therefore the public interface with alpacas is very limited, and there should be little or no opportunities for dogs to interfere with the alpacas.

Members are advised that the need for regular presence on the site is currently met by the applicant. The fact that the applicant has a developing enterprise suggests that daylight hours would be spent on-site, with office based, farm management duties conducted at home. This is of course something which is very common on almost every farm in the country.

The Council must be mindful of the applicant's relative close proximity to the agricultural holding. A distance of less than 1 mile, or thereabouts is not considered excessive for a farmer/farm worker to travel to their holding(s) to check the welfare of their herd. Such a distance could be driven in a few minutes, and is considered even walkable. This key determination was accepted by the Planning Inspectorate in assessing the cited Mudmead Stables appeal in November 2009. At both the local and national level, farmers often travel further distances to fulfil their animal husbandry duties. The 1 mile distance from home to holding is not considered excessive.

This fact severely weakens the functional test and justification for a new dwelling to be erected in the open countryside. Significant doubt is cast that there is an "essential" need for a dwelling on the application site (as required by PPS7). By living only a maximum of a few minutes drive away, the applicant should be able to provide the necessary care and short notice attention and deal with any emergencies on site, and thus negate any need for new housing, at this location.

The proposed development therefore fails to accord with the criterion listed within Annex A of PPS7. In addition, where the Council is of a view that a proposal fails to satisfy PPS7, such a proposal would also fail to satisfy West Wiltshire District Plan Policy H19 (and paragraph 3.2.99), which states that "new residential development in the open countryside is to be resisted and restricted to that required for the essential needs of agriculture..."

It is also duly noted that the applicant's agent has made reference to previous successful applications and appeals that supported new housing for alpaca related enterprises. Whilst contemporaneous decisions can be material considerations, it should be equally acknowledged that there have been other alpaca related proposals which the Council and the Planning Inspectorate have refused and

dismissed. Notwithstanding any previous decision made by the Council, whether by Wiltshire Council or its previous District Council's, each and every application must be assessed on its own individual merits.

The proposed siting of the temporary structure would not compromise the integrity of the Esso Gas Pipeline, providing the developer/applicant conforms to the associated guidance produced by linewatch.

In responding to the alleged covenants that may exist preventing residential access being taken off National Trust land, this is a private matter and not one that the committee can take into account.

#### Impact on heritage assets / the open countryside

The proposed siting of the temporary mobile unit would not cause demonstrable harm to the special character of Great Chalfield Manor, a Grade I Listed Building. This is because it is well screened from it by existing vegetation and hedgrows, despite the fact that it is a larger building than most temporary dwellings (it measures 18.4 m x 6.8 m). However, the lack of an essential need means that the unit would be inappropriate development in the open countryside, contrary to the above cited Government Guidance and adopted District Plan policies.

#### Servicing and road safety interests

No objections are raised in terms of the site servicing and road safety interests.

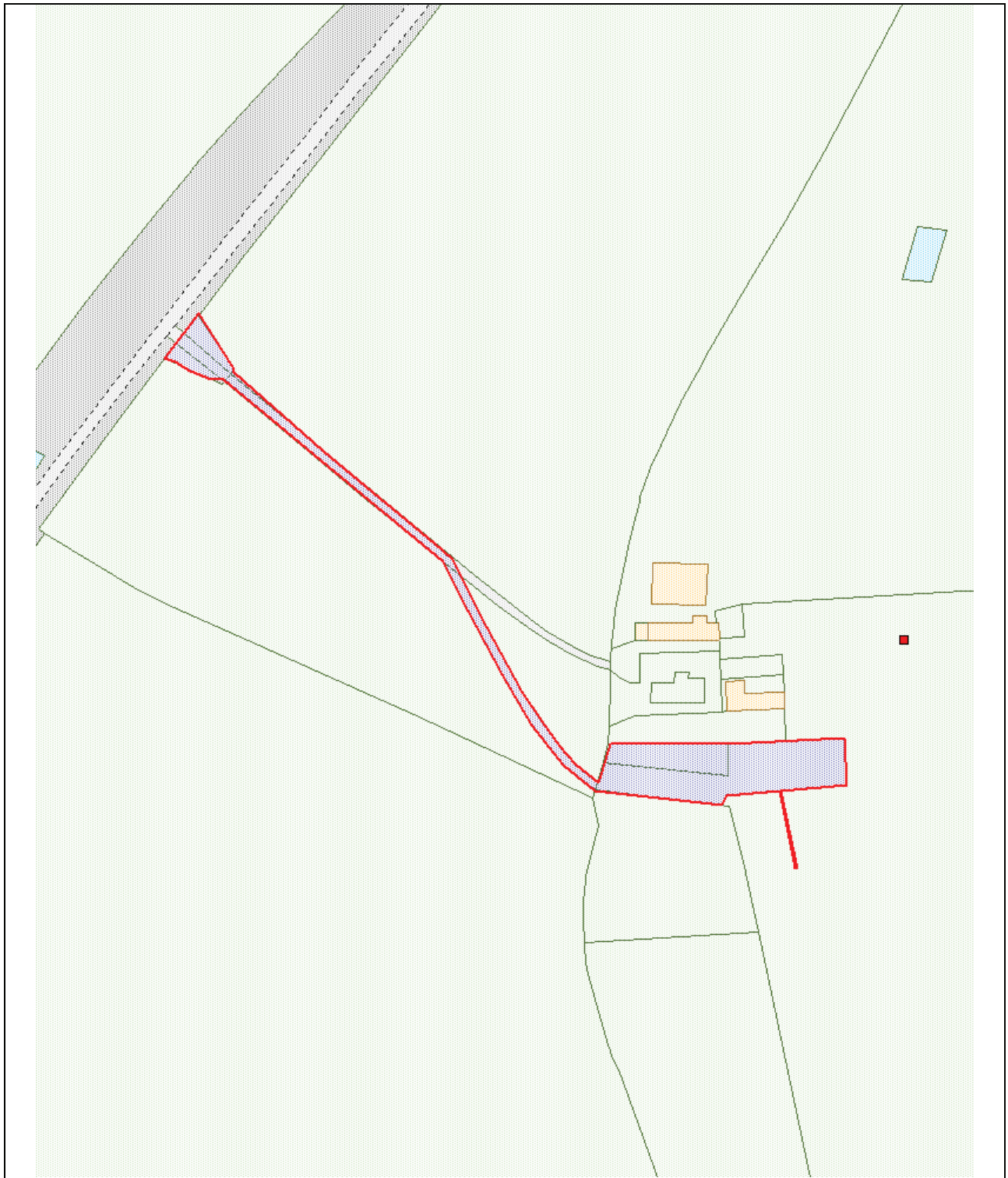
**Recommendation: Refusal**

#### For the following reason(s):

- 1 The applicant has failed to satisfy the Council that there is an essential need for a temporary dwelling to be sited at this particular site. The application fails the functional test as set out in Annex A to PPS7. The applicant currently occupies a dwelling in the village of Broughton Gifford, a short drive, cycle or walk from the site. The existing dwelling provides the required level of accommodation necessary to fulfil the functional needs of the enterprise. On this basis, an additional dwelling on the site would run contrary to the advice contained within Annex A of PPS7 and to West Wiltshire District Plan Policies C1 and H19.

<b>Appendices:</b>	
<b>Background Documents Used in the Preparation of this Report:</b>	





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[www.wiltshire.gov.uk](http://www.wiltshire.gov.uk)

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# Appeal Decision

Hearing held on 10 November 2009

Site visit made on 10 November 2009

by **A J A Ritchie MA(Oxon) LARTPI**  
**Solicitor**

an Inspector appointed by the Secretary of State  
for Communities and Local Government

The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN

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**Decision date:**  
**30 November 2009**

**Appeal Ref: APP/Y3940/A/09/2111039**

**2 Mudmead Lane, Common Hill, Steeple Ashton, Trowbridge, Wiltshire  
BA14 6EE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mrs Carol Watt against the decision of Wiltshire Council.
- The application Ref W/09/00267/FUL, dated 19 January 2009, was refused by notice dated 22 May 2009.
- The development proposed is the siting of a temporary agricultural worker's mobile home.

## Decision

1. I dismiss the appeal.

## Main issues

2. I consider that the main issues are:

(i) whether the agricultural case in support of the proposed dwelling is sufficient to justify an exception to policies designed to protect the countryside from development, with particular reference to whether it is essential for the proper functioning of the appellant's alpaca enterprise for a worker to be readily available at most times and

(ii) the implications of the proposal for highway safety, particularly in relation to visibility at the junction of Mudmead Lane and Common Hill.

## Reasons

### *Agricultural case & countryside protection policy*

3. The application is a full application for the siting of a mobile home with a condition limiting the life of the permission to 3 years. The Council have no objection to the design of the proposal and are satisfied that it could be removed after the expiry of the 3 year period. The proposed site for the dwelling has been moved at the Council's instigation to a position more closely related to existing stables and other buildings on the site.
4. The appeal site is in open countryside outside any settlement and is beyond the limits of the village of Steeple Ashton. Although it would be screened by hedges from views from Mudmead Lane and Common Hill, the dwelling would be visible from fields and countryside over a wide area. The siting of a dwelling in such a position would breach Policies C1 and H19 of the West Wiltshire District Plan First Alteration (the Local Plan); the former seeks to protect the quality of

the countryside through control of development and the latter does not permit new dwellings in the countryside unless justified in connection with the essential needs of agriculture. The proposal would also go against the advice in Planning Policy Statement 7: *Sustainable Development in Rural Areas* (PPS7); this says that the focus for most additional housing in rural areas should be our existing towns and identified service centres and that new house building (including single dwellings) in the countryside away from established settlements or from areas allocated for housing in development plans should be strictly controlled<sup>1</sup>.

5. Nevertheless, PPS7 acknowledges in paragraph 10 that it may be possible for isolated new houses in the countryside to be permitted if there is special justification in the form of the essential need for a worker to live permanently at or near their place of work in the countryside. This coincides with Policy H19 of the Local Plan. The case for any agricultural justification falls to be considered in accordance with the guidance in Annex A of PPS7.
6. The appellant has commenced an alpaca rearing enterprise on the appeal site which she operates along with her husband. This is their main source of income. Since the alpaca activity has only been commenced relatively recently, the Council considered the application as a new farming activity under the terms of paragraph 12 of Annex A; under this paragraph, a new dwelling should for the first 3 years be a temporary structure and should satisfy a number of criteria. Apart from normal planning requirements (which, leaving aside the highway safety issue to which I shall turn later, the Council confirmed would be met), these criteria provide that both a *financial* test and a *functional* test should be met.
7. The financial test requires clear evidence of a firm intention and ability to develop the enterprise and clear evidence that it has been planned on a sound financial basis. The Council have accepted throughout that, on the basis of the business plan submitted with the application, this test has been met and they confirmed this at the hearing. Since there is no reason for me to take a contrary view, I will give no further consideration to this aspect of the justification.
8. The functional test requires me to be satisfied that there is a functional need for one or more workers to be readily available at most times for the proper functioning of the enterprise<sup>2</sup>. It is also necessary to establish that the functional need could not be fulfilled by another existing dwelling on the unit or any other existing suitable accommodation in the area.
9. Regarding the first part of this test, annex A gives 2 examples of where a requirement might arise if workers are needed to be on hand day and night: (i) in case animals require essential care at short notice and (ii) to deal with emergencies that could otherwise cause serious loss. In the case of alpacas, the need would generally arise either when the animals are giving birth either to assist the calving process or to support the cria (young alpaca); it would also arise when the security of the animals is prejudiced.

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<sup>1</sup> Paragraphs 8 & 9(ii).

<sup>2</sup> Paragraph 4 of Annex A

10. The appellant's experience has so far been that intervention at calving was needed only in a single instance to bottle feed a cria – feeding was required every 4 hours. In this, the appellant considered that she has been fortunate, as other alpaca farmers have experienced losses and the need to assist with difficult births. It is generally accepted that, since the animals have high values, the loss of even a single example may have serious consequences for the viability of the business. Nevertheless, I heard from the Council's agricultural adviser, Mr Coke, that births generally occur during the daytime, that multiple births with the associated complications are rare and that human intervention is not always required and may even add to the stress suffered by the mother. On the other hand, the view of the appellant's agricultural consultant, Mr Warren, is that night time alpaca births are now occurring and that perinatal issues are a real risk.
11. In relation to difficulties and emergencies associated with calving, I accept that the enterprise is only young, but only 6 births have so far taken place at Mudmead Lane and the experience of the appellant so far does not appear to justify someone to be living on site to deal with these. There are presently 15 alpacas in the appellant's herd together with another 4 kept on a livery basis and it is proposed that this number will hardly increase so that there will be no more than 20 or so alpacas on the land. The relatively limited projected number of animals does not indicate to me that the risks associated with calving will significantly increase.
12. Apart from the need for care around the birth of the cria, I have examined the other justification put forward by Mr Warren for someone to be living on site. Whilst a site presence is clearly necessary for a range of purposes relating to the health and welfare of the alpacas, including to deal with the recent threat of tuberculosis within the herd<sup>3</sup>, I am not convinced that this need extends beyond a requirement for a regular presence on site during the day. The appellant makes frequent visits to the site (during a 12-month period from April 2008 to April 2009 the appellant visited the site on average over 5 times per day) for purposes such as clearing manure, clipping nails and regular injections, shearing, mating and building maintenance. In my view, visits for these purposes can generally be described as more in the nature of routine visits rather than essential time-critical visits.
13. Paragraph 6 of Annex A says that the protection of livestock from theft or injury by intruders may contribute to the need for a new agricultural dwelling, although it will not by itself be sufficient to justify one. The appellant and her husband have fears as to security; some years ago a horse box was stolen from the site and more recently the yard was entered and the gate and padlock damaged but the intruders were disturbed before any property was stolen. However, paragraph 6 is concerned with theft or injury to livestock and I heard no evidence of any attempt to steal or injure animals. Whilst, given the value of the animals, it is natural for the appellant and her husband to be fearful as to security, the security issue does not in my view add significant weight to the agricultural case in this instance. In reaching this view, I have taken account of the fact that a public footpath crosses the site, but it is presently fenced off from the alpaca grazing areas and, in any event, any problems caused by walkers and their dogs could be addressed by a daytime presence.

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<sup>3</sup> Within alpacas generally and not the appellant's herd specifically

14. In my view, the need for a regular presence on the site is currently being met by the appellant and/or her husband making up to 6 daily visits to the site and spending some 26-30 hours per week there. However, I consider that the need that has been demonstrated falls short of it being essential for a worker to be resident on the site and thus "readily available at most times" as required by Annex A.
15. Even if I had reached a different conclusion on this point, I would still need to be satisfied that the functional need could not be fulfilled by another dwelling in the area. The Council produced details of a number of properties for sale or let in Steeple Ashton, but I need not consider the suitability of these since the appellant and her husband already have a house in the village. This is only some 1.6km (1 mile) from the appeal site, a journey which would take no more than about 5 minutes by car over a relatively uncomplicated route, except on a few occasions when narrow lanes in the village are temporarily blocked by service vehicles.
16. Therefore, if I have underestimated the need for presence on site, I consider that the location of the appellant's house is such that any additional need for site attendance could be met by visits from there. I appreciate that it is not possible to see the appeal land from the appellant's house, and CCTV, although considered by the appellant, is not an option at present; nonetheless, I consider that calving and general health problems amongst the herd could generally be picked up via the regular attendance on site and where particular problems are detected or anticipated, the number of visits could if necessary be stepped up. I understand that it cannot be reliably predicted when alpacas will give birth as the gestation period for cria is variable, also that alpacas often disguise health or birthing problems, but this would still hinder detection of and attention to problems whether or not the appellant was living on site.
17. In considering whether the functional test is met, I have considered a number of appeal decisions that have been brought to my attention and I acknowledge that some Inspectors have concluded that with alpaca enterprises there is an essential need as per Annex A. In particular, in a 2008 appeal relating to a site near Camborne, Cornwall<sup>4</sup>, the Inspector accepted that there was a functional need (although the herd was to be increased to 25-30 breeding females, somewhat larger than the herd proposed in the present appeal) and would not be met by the appellant's house some 1 mile away. A similar finding was made in a 2009 appeal at Husthwaite, near Thirsk<sup>5</sup>. However, in another recent appeal<sup>6</sup>, the Inspector found that most of the problems likely to rise with the alpaca herd at Valley View Farm near Canterbury as well as routine care could be dealt with by a non-resident worker. In another appeal decision concerning the Chestnut Alpaca Farm at Girton, near Newark<sup>7</sup>, the Inspector found a lack of conclusive evidence to show that it was essential to live on-site and considered that the appellant's home some 2.5 miles from the site would have met the need.
18. I have also taken into account that the Council's predecessor, West Wiltshire District Council, granted temporary planning permission in 2002 for an

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<sup>4</sup> Appeal Ref:APP/Y0815/A/08/2075800

<sup>5</sup> Appeal Ref:APP/G2713/A/08/2080523

<sup>6</sup> Appeal Ref:APP/J2210/A/08/2067457

<sup>7</sup> Appeal Ref:APP/B3030/A/08/2090569

agricultural worker's dwelling at an alpaca enterprise at Bratton, a village not far from Steeple Ashton. However, this decision was made some years ago and I note that it was against the advice of the Council's agricultural adviser who considered that the functional need did not equate to a requirement for an essential presence on the holding at most times. Although the applicants in that case lived in the village, their home was said to be some 1.5 miles from the site.

19. Whilst these appeal decisions (and the Bratton permission) are material considerations in the present appeal, they are not binding upon me and I have considered the present appeal proposal on the basis of its own circumstances and, in particular, in the light of the evidence submitted at the hearing and in writing. Although I have only a summary and no details of the evidence submitted in other appeals, I note that evidence of varying types and from different sources has been submitted and considered.
20. The Council's evidence informed me that the appellant and her husband owned other land at Southbrook Lane, Steeple Ashton which might be more suited to the alpaca enterprise; I have not given weight to this suggestion since it is a matter for the appellant as to where to establish the enterprise and I am obliged to consider the appeal in the light of the circumstances applying to the appeal site. In any event, the 2 sites are said to be equidistant from the appellant's home and therefore there would be no benefit in terms of proximity.
21. I therefore conclude that it is not essential for the proper functioning of the appellant's enterprise for a worker to be readily available on the site at most times and that the functional test in Annex A of PPS7 is not met. Therefore the agricultural case for the proposal is not sufficient to justify the siting of a new dwelling in the open countryside in breach of Policies C1 and H19 of the Local Plan and the advice in PPS7.
22. In reaching my conclusion, I have borne in mind the benefits that would arise from the reduction or elimination of car journeys to the site from the appellant's home, but the development plan and PPS7 require me to consider whether the development can be justified on agricultural grounds. There may be some scope under the current arrangements for limiting the number of journeys without reducing the time spent on site but, in any event, I do not consider that the balance of environmental advantage is necessarily with the appeal proposal, given that it would harm the quality of the countryside by introducing a dwelling, albeit temporary, in an isolated location.

#### *Highway safety*

23. The access to the appeal site is onto Mudmead Lane, an unmade road which leads into Common Hill, the main route leading northwards out of Steeple Ashton. An aerial photograph produced by the highway authority representative at the hearing demonstrated the potential for vehicle conflict at this junction. Also, there are shortcomings in terms of the sight stopping distance and forward visibility for vehicles turning right into Mudmead Lane from Common Hill, since the distances recommended in Manual for Streets<sup>8</sup>

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<sup>8</sup> Department for Transport 2007

(MFS) are not met. This could prejudice the ability of vehicles to make the right turn safely in the face of oncoming traffic, but the highway authority accepted that the discrepancy is not great (39m actual distance at 30mph as opposed to 43m recommended). In addition, the northwards visibility for vehicles emerging from Mudmead Lane is clearly substandard, but this can be significantly improved by vehicles using the southerly arm of the split junction instead of the northerly one<sup>9</sup>.

24. The Steeple Ashton Parish Council have long had concerns over highway safety at this junction and Mr & Mrs Strange who live opposite have witnessed a number of accidents at the junction which are detailed in a letter recently forwarded to the Council. However, neither the dates of the accidents nor the time frame over which they occurred are stated in the letter, and there are no police or highway authority records of accidents at this location.
25. The appellant does not contest the technical shortcomings surrounding the junction as set out by the highway authority, but relies on the curtailment of the numerous journeys to and from the site if the dwelling were to be allowed. This would substantially reduce the number of vehicle movements at the junction. There was some discussion at the hearing as to the actual overall reduction that would occur. The appellant considered that there would be a reduction of some 5 or 6 journeys per day in connection with the alpacas, together with a further reduction resulting from the phasing out of the livery stabling for horses. The Parish Council and interested persons thought there would be more service deliveries to the site, but many of these are already taking place. However, there would undoubtedly be a significant number of comings and goings associated with a domestic presence on the site, TRICS suggesting 8-10 movements per day being generated from a single residential unit.
26. In my view, bearing in mind particularly the size of the proposed dwelling which would have only 1 bedroom and thus be unsuitable for family occupation, if there is an overall increase in traffic using the junction it would be very modest. Traffic conditions at the junction are not in my opinion so compromised that such a modest increase in movements cannot be accommodated without undue risk. I therefore conclude that the proposal does not have unacceptable implications for highway safety. Nevertheless, my finding on this issue does not outweigh my conclusion on the first main issue and the appeal therefore fails.

*A J A Ritchie*

**INSPECTOR**

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<sup>9</sup> It was accepted by all present at the site visit that this would be within the law.

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## REPORT TO THE WESTERN AREA PLANNING COMMITTEE

<b>Date of Meeting</b>	28.09.2011		
<b>Application Number</b>	W/11/01642/FUL		
<b>Site Address</b>	2 High Street Westbury Wiltshire BA13 3BW		
<b>Proposal</b>	Change of use from A1 to A5		
<b>Applicant</b>	Barley Properties Ltd		
<b>Town/Parish Council</b>	Westbury		
<b>Electoral Division</b>	Westbury East	<b>Unitary Member:</b>	Michael Cuthbert-Murray
<b>Grid Ref</b>	387257 151359		
<b>Type of application</b>	Full Plan		
<b>Case Officer</b>	Mr Matthew Perks	01225 770344 Ext 15207 matthew.perks@wiltshire.gov.uk	

### Reason for the application being considered by Committee

Councillor Cuthbert-Murray has requested that this item be determined by Committee due to the relationship to adjoining properties.

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#### 1. Purpose of Report

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

Neighbourhood Responses

One neighbour objection was received.

Town Council Response

The Westbury Town Council objects to this application for the reasons laid out in the "Consultations" section of this report.

#### 2. Report Summary

The main issues to consider are the acceptability of the proposed change of use from A1 within the Primary Retail Frontage area. Policy SP4 of the West Wiltshire District Plan, 1st Alteration 2004 is relevant especially as it relates to existing mix of uses so that changes from A1 do not prejudice the shopping function of the primary retail frontages or individually or cumulatively harm the vitality of the town centre. Further considerations are issues of amenity and highway safety.

#### 3. Site Description

No 2 High Street is a ground floor retail unit of approximately 42m<sup>2</sup>. It is situated at the north eastern end of High Street. At the time of writing it is occupied by a florist and forms the end unit on this row. The unit forms part of a purpose-built commercial development in High Street, together with residential units to the upper floors, although there is no residential unit directly above No.2. The property falls within the Westbury town centre Primary Retail Frontage area.

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

On this site none, but it is considered that the overall pattern of use as it now exists must form part of the evaluation. This is further discussed in the "Considerations" section of this report, below.

#### **5. Proposal**

The proposal is for a change of use to an A5 use (hot food takeaway). No external alterations are proposed to the building. Existing access and parking arrangements would remain unchanged.

#### **6. Planning Policy**

West Wiltshire District Plan 1st Alteration (2004)

C31a Design

C38 Nuisance

SP1 Town Centre Shopping

SP4 Primary Retail Frontage

PPS1 Delivering Sustainable Development

PPS4 Planning for Sustainable Economic Development

#### **7. Consultations**

##### Town Council

The Westbury Town Council objects to the proposal "...as this premises is in a prime retail location and change of use from A1 to A5 would result in further degradation of the High Street which is designated a primary retail zone which is already under threat due to an increased percentage of non A1 premises.

##### Highways

No objection, and no conditions recommended.

##### Environmental Health

No objections but recommendations in respect of hours of operation, the submission of noise odour control measure details.

#### **8. Publicity**

The application was advertised by site notice and neighbour notification. Expiry date: 15/07/2011

One response was received. The owner of the restaurant/takeaway at 10 High Street objects where his own premises were opened in April 2011 and there are many other restaurants and takeaways already. The change of use would result in one less retail shop, in the town.

#### **9. Planning Considerations**

##### Key Policy

The application site falls within the primary retail frontage of Westbury and as such policy SP4 of the West Wiltshire District Plan 1st Alteration 2004 is a primary consideration. This Policy states that:- "changes of use from A1 to A2 and A3 uses at ground floor level will only be permitted having regard to the existing mix of uses, where they do not prejudice the shopping function of the primary retail frontages or individually or cumulatively harm the vitality of the town centre."

(In the interests of clarity it is noted that, at the time of the adoption of the local development plan in 2004 the Use Class of A5 - hot food takeaway - had not yet been introduced and would have been

considered to be A3 in terms of the then-applicable Use Classes Order. It is therefore considered reasonable to treat A5 uses as A3 restaurant and cafes for the purposes of Policy SP4).

#### Current mix of town centre uses

A survey of the Primary Retail Frontage reveals that:

- there are a total of 30 separate business units in this area;
  - 22 are A1 shops (19 in-use, with 3 vacant, including the application site and with another of these that has signs of activity inside, but is not open);
  - 4 units are A2 professional services (banks and estate agents);
  - 1 is a D1 institutional use (education);
  - 1 cafe site (A3) that is vacant but has a notice of pending re-opening under a new name; and
  - there are two A5 takeaways.
- (The Visitor Centre, immediately adjacent to the Primary Frontage, is also vacant)

This information indicates:

- that there is a strong mix of uses with the majority in retail use consistent with a town centre shopping area; and
- A1 uses would still constitute approximately 70% of the business types, if it is accepted that the vacant sites will be occupied, and this permission is granted.

Whilst acknowledging the Town Council's observations, Policy SP4 has no quantitative criterion or threshold basis on which to assess individual or cumulative harm to the vitality of the town centre in terms of non-A1 uses. Further guidance in the form of PPS4 (Planning for Sustainable Economic Development) is that Local Planning Authorities "... should proactively plan to promote competitive town centre environments and provide consumer choice by..." "... supporting a diverse range of uses which appeal to a wide range of age and social groups, ensuring that these are distributed throughout the centre." From discussions with the agent, it is understood that the current retail use would remain, in accordance with the terms of its lease, but that if it did subsequently fall vacant, the permission would enable a wider reach of marketing for viable uses.

Research on appeal case histories furthermore reveals that Inspectors have concluded that food outlets can be beneficial to reviving dead frontages since catering uses generate a high level of pedestrian attraction and evening opening helps keep shopping centres alive. Whilst each case must be treated on its own merits it is considered that the proposal has the potential to add to the mix of uses in the Primary Retail Frontage, whilst not harming what would remain the predominantly A1 function of the area.

The objections from the Town Council are understandable but the proposed change of use away from A1, even given the suggested possible recovery of the town centre in 18 months as a result of regeneration initiatives, would still result in a use that would generate footfall in the area, also beyond current hours associated with the immediately surrounding retail, institutional and banking uses.

With regard to neighbour objection the issue of new competition is not considered material to this decision. The objector also raises the issue of the mix of units within the High Street Highway that the Town Council highlighted. This aspect is discussed in paragraphs above.

#### Other consultees

Highway officers have no objection to the proposal and make no recommendation in respect of additional conditions. The site is in an accessible town centre locality and wholly adequate parking facilities are available in the vicinity.

The Environmental Health Officer also raises no objection, and recommends conditions which it is considered reasonably address matters of opening hours and nuisance control, along similar lines to those imposed elsewhere in the vicinity.

#### Conclusion

Based on the above considerations, the application is recommended for permission.

**Recommendation:        Permission**

**For the following reason(s):**

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

- 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 use hereby permitted shall only take place between the hours of 08:00 and 23:00.

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

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

- 3     Prior to the operation commencing a scheme of noise control shall be submitted to the LPA for approval. The scheme shall be fully implemented prior to the use commencing.

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

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

- 4     Prior to the operation commencing a scheme of odour control shall be submitted to the LPA for approval. Once approved, the scheme shall be fully implemented prior to the use commencing.

REASON: To ensure the creation/retention of an environment free from intrusive odours in the interests of the amenity of the area.

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

**Informative(s):**

- 1     The applicant is advised to contact the food safety team when considering more detailed design and layout and prior to the operation of any food business.

<b>Appendices:</b>	
<b>Background Documents Used in the Preparation of this Report:</b>	



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