

AGENDA

Meeting: Eastern Area Planning Committee

Place: Council Chamber - Council Offices, Browfort, Devizes

Date: Thursday 26 April 2012

Time: 6.00 pm

Please direct any enquiries on this Agenda to Roger Bishton, of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 713035 or email roger.bishton@wiltshire.gov.uk

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

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

Membership:

Cllr Jane Burton	Cllr Chris Humphries
Cllr Peggy Dow	Cllr Laura Mayes
Cllr Nick Fogg	Cllr Jemima Milton
Cllr Richard Gamble (Vice Chairman)	Cllr Christopher Williams
Cllr Charles Howard (Chairman)	

Substitutes:

Cllr Liz Bryant	Cllr Howard Marshall
Cllr Trevor Carbin	Cllr Francis Morland
Cllr Nigel Carter	Cllr Christopher Newbury
Cllr George Jeans	Cllr Jeffrey Ody
Cllr Simon Killane	Cllr Jonathon Seed
Cllr Jerry Kunkler	

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 and sign as a correct record the minutes of the meeting held on 5 April 2012 (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 and Councillors' Questions**

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 no later than 5pm on **Thursday 19 April 2012**. 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. **Appeal by The Society of Merchant Venturers: Land East of Quakers Walk, Roundway, Devizes - Development of Care Village - Planning Application Reference E/2011/1139/OUT (Pages 11 - 20)**

A report by the Area Development Manager is attached.

7. **Planning Applications**

To consider and determine the following planning applications.

7.a **E/2012/0204/FUL - 13 Manor Bridge Court, Tidworth, SP9 7NH - Change of Use of Garage to form a Play Room for Childminding (Pages 21 - 26)**

7.b **E/2011/1714/FUL - Land South of 33 Avon Square, Upavon, SN9 6AD - Construction of 5 New Dwellings with Associated Gardens and Sheds, and 20 Car Parking Spaces (Pages 27 - 32)**

8. **Urgent items**

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

Part II

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

None

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EASTERN AREA PLANNING COMMITTEE

DRAFT MINUTES OF THE EASTERN AREA PLANNING COMMITTEE MEETING HELD ON 5 APRIL 2012 IN THE COUNCIL CHAMBER - COUNCIL OFFICES, BROWFORT, DEVIZES.

Present:

Cllr Jane Burton, Cllr Peggy Dow, Cllr Richard Gamble (Vice Chairman), Cllr Charles Howard (Chairman), Cllr Jerry Kunkler (Substitute), Cllr Laura Mayes, Cllr Jemima Milton and Cllr Christopher Williams

Also Present:

Cllr Brigadier Robert Hall

15. Apologies for Absence

Apologies for absence were received from Cllr Nick Fogg and Cllr Chris Humphries (who was substituted by Cllr Jerry Kunkler).

16. Minutes of the Previous Meeting

Resolved:

To confirm and sign as a correct record the minutes of the Committee meeting held on 15 March 2012.

17. Declarations of Interest

There were no declarations of interest.

18. Chairman's Announcements

- (1) National Planning Policy Framework Seminar The Chairman announced that the Area Development Manager would be holding a seminar on the National Planning Policy Framework at 4.45pm on Thursday 26 April 2012, immediately before the start of the next meeting,

to which would be invited all Members whose electoral divisions were situated in the area served by this Committee.

- (2) E/2011/1139/OUT – Land east of Quakers Walk, off London Road, Devizes, SN10 2DJ – Development of a Care Village (Use of Class C2) including Access, Car Parking and landscaping The Chairman reported that the applicant had submitted an appeal and that consideration was being given as to what action might be taken.

19. **Public Participation and Councillors' Questions**

The Committee noted the rules on public participation and the manner in which the meeting would be held.

Members of the public addressed the Committee as set out in Minute No 22, as detailed below.

There were no questions received from members of the public or members of the Council.

20. **Appeal Performance 2011**

The Committee received and noted a report by the Area Development Manager which detailed the outcomes of decisions made by the Planning Inspectorate on appeals in the area covered by this Committee in 2011.

The Committee were pleased to note that there were no cost awards against the Council for any decisions made by this Committee, the only costs incurred being the officer time in preparing appeal statements.

21. **Land at, adjacent to and near 21 Avon Square, Upavon**

The Committee received and noted a report by the Area Development Manager which updated Members on action taken in response to a Committee decision made in 2011 on an enforcement matter to secure compliance with a Section 215 'Untidy Land' Notice in relation to land at 21, Avon Square, Upavon.

Joint working with the Council's Highways Team and Sarsen Housing Association had taken place to secure the removal of vehicles and items stored on land at this location, resulting in a measurable improvement to the appearance of the area. It was noted that a legal charge in respect of the sum spent by the Council to carry out its part of the clearance works would be placed on the property and would be recovered at the point of sale.

Cllr Brigadier Robert Hall, the local Member, on behalf of the Upavon Parish Council and the local residents, thanked the officers, and in particular Allan Brown and Steven Jenkins, Planning Enforcement Officers, for their diligence in securing such a satisfactory outcome.

22. Planning Applications

22.a E/2012/0113/FUL - 8 High Street, Market Lavington, Devizes, SN10 4AF - Revised Design of Plot 3 & Plot 4, Revised Site Layout & Parking Arrangements (Amendments to E/10/0965/FUL & E/2011/1110/FUL)

The following people spoke against the proposal

Mr AJ Hopkinson, a local resident
Cllr Colin Osborn, representing Market Lavington Parish Council

The following person spoke in support of the proposal

Mr Shane Marshall, the applicant

The Committee received a presentation by the Area Development Manager which set out the main issues in respect of the application. He introduced the report which recommended that planning permission be granted subject to conditions.

Members of the Committee then had the opportunity to ask technical questions after which the Committee received statements from members of the public as detailed above, expressing their views regarding the planning application.

Members then heard the views of Cllr Richard Gamble, as local Member, who did not support the proposal.

After discussion,

Resolved:

To grant planning permission for the following reason and subject to the conditions listed below:

Reason for Decision

The decision to grant planning permission has been taken on the grounds that the proposed development would not cause any significant harm to interests of acknowledged importance and having regard to the following:

- (a) Policy PD1 of the Kennet Local Plan 2011.**

(b) Supplementary planning guidance contained in the Market Lavington Conservation Area Statement.

(c) Government policy contained in PPS3: 'Housing' and PPS5: 'Planning for the Historic Environment'.

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 No development shall commence on site until details of the proposed ground floor slab levels for the dwelling on plot 4 have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved levels details.

REASON: In the interests of visual amenity.

3 No development shall commence on site until samples of the materials to be used for the external walls and roofs of plot 4 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 preserving the character and appearance of the conservation area and the setting of the listed building.

4 No development shall commence on site until details of the eaves and verges for the dwelling on plot 4 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 preserving the character and appearance of the conservation area and the setting of the listed building.

5 No development shall commence on site until details of all new window and external door joinery for plot 4 have been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include depth of reveal, details of heads, sills and lintels, elevations at a scale of not less than 1:10 and horizontal/vertical frame sections (including sections through glazing bars) at not less than 1:2. Development shall be carried out in accordance with the approved details.

REASON: In the interests of preserving the character and appearance of the conservation area and the setting of the listed building.

6 The rainwater goods to be installed in the development hereby permitted shall be of cast metal construction and finished in black.

REASON: In the interests of preserving the character and appearance of the listed building and its setting.

7 The bricks to be used in constructing the walls of the dwelling on plot 4 shall be laid in Flemish bond.

REASON: In the interests of preserving the character and appearance of the conservation area and the setting of the listed building.

8 Notwithstanding the details shown on the submitted plans and particulars, prior to the installation of any external lighting, details of its positioning and appearance shall be 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 preserving the character and appearance of the conservation area and the setting of the listed building.

9 Development shall be carried out in accordance with the mitigation measures detailed in Sections 8 and 9.5 of the Updated Bat Survey and Mitigation Report (Home and Country Solutions, September 2010). submitted with planning application reference E/10/0965/FUL. Plot 3 shall not be occupied until written confirmation has been submitted to the Local Planning Authority by a licensed bat worker that all mitigation measures have been completed in accordance with this mitigation scheme.

REASON: To ensure that any impact of development upon bats is properly mitigated.

10 No development shall commence on site until there has been submitted to and approved in writing by the Local Planning Authority a scheme of hard and soft landscaping, which shall include details of all boundary treatments, details of the surfacing for the driveway and parking spaces, and details of new tree planting.

REASON: In the interests of preserving the character and appearance of the conservation area and the setting of the listed building.

11 All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the dwellings or the completion of the development whichever is the sooner; any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the Local Planning Authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

REASON: In the interests of preserving the character and appearance of the conservation area and the setting of the listed building.

12 There shall be no excavations to a depth greater than 2 metres below existing ground levels (as detailed on drawing no. 828-01), unless otherwise agreed in writing by the Local Planning Authority.

REASON: To safeguard the site of archaeological interest.

13 No part of the development shall be occupied until the access, turning area and parking spaces have been provided in accordance with the approved plans. The areas shall be maintained for those purposes at all times thereafter.

REASON: In the interests of highway safety and the amenity of future occupants.

14 The lean-to structure on the south-west elevation of plot 4 shall be retained as an open ended car port and it shall be kept available at all times for the parking of a car. The structure shall not be enclosed at either end to create a garage nor shall it be used for storage or as habitable accommodation without a separate grant of planning permission.

REASON: To ensure adequate parking on the site in the interests of highway safety.

15 The windows at first floor level shown on the approved plans on the north-west and south-east elevation of plot 3 shall be glazed with obscured glass and shall be so maintained thereafter.

REASON: In the interests of the privacy of neighbouring properties.

16 The dwelling on plot 3 shall not be occupied until the window in the north-east elevation has been infilled with brick to match the existing building.

REASON: In the interests of the privacy of the neighbouring property.

17 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order, 1995 (or any Order revoking and re-enacting or amending that Order with or without modification), no windows, doors or other openings shall be inserted in the north-east elevation or above ground floor ceiling level in the north-west or south-east elevations of the dwelling on plot 3.

REASON: In the interests of the privacy of the neighbouring property.

18 This decision relates to documents/plans submitted with the application, listed below. No variation from the approved documents should be made without the prior approval of this Council. Amendments may require the submission of a further application. Failure to comply with this advice may lead to enforcement action which may require alterations and/or demolition of any unauthorised buildings or structures and may also lead to prosecution.

(a) Application Form, Design & Access Statement, Tree Statement and Drawing no. 828-01 received on 11th January 2012.

(b) Drawing nos. 828-02 Rev A & 828-03 Rev A received on 5th February 2012.

19 Notwithstanding the details shown on the plans and the provisions of the Town and Country Planning (General Permitted Development) Order, 1995 (or any Order revoking and re-enacting or amending that Order with or without modification), no doors shall be placed over the entrance to the garage on plot 3.

REASON:

To ensure that the garage is kept available for use for the parking of vehicles, in the interests of highway safety and providing adequate off-street parking.

20 INFORMATIVE TO APPLICANT:

Your attention is also drawn to the conditions imposed on the listed building consent reference E/2012/0114/LBC and dated 5th April 2012.

22.b E/2012/0114/LBC - 8 High Street, Market Lavington, Devizes, SN10 4AF - Revised Design of Plot 3 (Amendment to E/10/0966/LBC)

On considering a report by the Area Development Manager,

Resolved:

To grant Listed Building Consent for the following reason and subject to the conditions listed below:-

Reason for Decision

The proposed works will not be detrimental to the character of the building.

Conditions

1 The works for which Listed Building Consent is hereby granted shall be begun before the expiration of three years from the date of this consent.

REASON: To comply with the provisions of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2 No works shall commence on site until joinery details of all new windows and internal / external doors (including garage doors) have been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include depth of reveal, elevations at a scale of not less than 1:10 and horizontal/vertical frame sections (including

sections through glazing bars) at not less than 1:2. The works shall be carried out in accordance with the approved details.

REASON: In the interests of preserving the character and appearance of the listed building and its setting.

3 The new brickwork for infilling previous openings (where required) shall match the adjacent brickwork in terms of the size, colour and texture of the bricks.

REASON: In the interests of preserving the character and appearance of the listed building and its setting.

4 No works shall commence on site until details of any external vents or extracts have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.

REASON: In the interests of preserving the character and appearance of the listed building and its setting.

5 All new roof lights shall be of the 'conservation' type with a single vertical glazing bar and mounted flush with the roof slope.

REASON: In the interests of preserving the character and appearance of the listed building and its setting.

6 All new rainwater goods shall be of cast metal construction and finished in black.

REASON: In the interests of preserving the character and appearance of the listed building and its setting.

7 This decision relates to documents/plans submitted with the application, listed below. No variation from the approved documents should be made without the prior approval of this Council. Amendments may require the submission of a further application. Failure to comply with this advice may lead to enforcement action which may require alterations and/or demolition of any unauthorised buildings or structures and may also lead to prosecution.

(a) Application Form, Design & Access Statement, Tree Statement and Drawing no. 828-01 received on 11th January 2012.

(b) Drawing nos. 828-02 Rev A & 828-03 Rev A received on 5th February 2012.

8 Notwithstanding the details shown on the submitted plans, no garage door shall be placed over the entrance to the garage on plot 3.

REASON:

To define the extent of the consent hereby granted.

9 **INFORMATIVE TO APPLICANT:**

Your attention is also drawn to the conditions imposed on the planning permission reference E/2012/0113/FUL and dated 5th April 2012.

23. **Urgent items**

There were no items of urgent business.

(Duration of meeting: 6.00 - 6.45 pm)

The Officer who has produced these minutes is Roger Bishton, of Democratic Services, direct line 01225 713035, e-mail roger.bishton@wiltshire.gov.uk

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

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**EASTERN AREA PLANNING COMMITTEE
26 APRIL 2012**

**APPEAL BY THE SOCIETY of MERCHANT VENTURERS: LAND EAST of QUAKERS
WALK, ROUNDWAY, DEVIZES - DEVELOPMENT of CARE VILLAGE - PLANNING
APPLICATION REFERENCE E/2011/1139/OUT**

1.00 Purpose of Report

- 1.01 To advise members of the receipt of an appeal against the decision to refuse planning permission for a care village at Quakers Walk; to update members of a change in circumstances since the planning application was refused by the Council – namely the publication by the Government of the National Planning Policy Framework; and to outline the options now open to the Council in dealing with the appeal.

2.00 Background

- 2.01 Members will recall that the Eastern Area Planning Committee on 15th March 2012 resolved to refuse planning permission for the development of a care village on land east of Quakers Walk. The application was refused permission against the recommendation of officers for the following reasons:

1) The application includes insufficient evidence to demonstrate that there will be no conflict between the care village and adjacent land uses at Devizes Sports Club and the police helicopter landing pad, in particular in relation to noise. As such, the proposal is contrary to policy PD1 of the Kennet Local Plan 2011;

2) The local planning authority is not satisfied that the proposal will not have an adverse impact on existing congestion levels on London road, by virtue of the fact that the scheme has not been tested using the Devizes Traffic Model. As such, the proposal is contrary to policy PD1 of the Kennet Local Plan 2011.

3) The proposal may lead to an over-supply of extra care accommodation in the Devizes Community Area, and it is unclear how the scheme fits into the Council's Wiltshire Older People's Accommodation Strategy. The proposal therefore fails to contribute to a balanced, mixed tenure community, contrary to the Council's objectives as set out in the Kennet Local Plan 2011 and emerging Wiltshire Core Strategy.

- 2.02 On April 3rd, the Council received notice from the applicants that an appeal has been lodged against this decision. The appellants have requested that the matter be dealt with at a hearing. The Council is currently awaiting confirmation from the Planning Inspectorate about the procedure and timing of the appeal.

3.00 Changes in Circumstances

- 3.01 Since the decision was made by the Council, the Government has published its National Planning Policy Framework (NPPF). This replaces the previous planning policy statements (PPS) that the Council took into account when determining this application (PPS1; 3; 9). It also replaces the draft NPPF to which only limited weight could be given at the time. The Planning Inspector will no longer have regard to any of these and will instead have regard to the NPPF, the policies of the development plan, and any other material considerations.

The NPPF introduces a presumption in favour of sustainable development, defined as

having economic, social and environmental dimensions. The emphasis is on making decisions in accordance with the development plan, by approving development proposals that accord with the development plan without delay. The economic dimension requires decision makers to put significant weight on the need to support economic growth to meet the housing, business and other development needs of an area. The focus is on making development happen in the right place at the right time. The social role emphasises the need to support healthy communities by providing a supply of housing required to meet the needs of present and future generations by creating a high quality environment, whilst the environmental role aims to protect and enhance the natural, built and historic environment, with protection for designated areas such as areas of outstanding natural beauty, historic assets and land with environmental designations.

4.00 Options open to the Council

4.01 The Council cannot reverse its earlier decision on this application as it has already determined it. The decision making power on this application now rests with the Secretary of State through a Planning Inspector. The appeal will proceed unless the appellant withdraws it. The Council can proceed with the appeal and if it does so, will be expected to produce substantive evidence to justify its decision.

4.02 However, the Council can decide to withdraw its objections to the scheme at any time. In such circumstances, the appeal will still proceed and third parties will be able to attend, but the length and cost of the appeal can be reduced. It is important if this action is to be followed that such a decision is made as early as possible to avoid the appellants in unnecessary costs in providing evidence to challenge the Council's grounds for refusal.

4.03 In addition to the publication of the NPPF, it is also relevant to examine the Council's recent experience of costs awards against it by Planning Inspectors. Although no costs have been awarded against decisions made by the Eastern Area Planning Committee, the Western Area Planning Committee has recently had two costs awards against it where the Planning Inspector found that the Council's reasons for refusal had no substantial evidence to back up the reasons for refusal that it put forward and that this failure amounted to unreasonable behaviour by preventing development that in the light of national and local planning policies should have been permitted. These decisions were at Semington and Slag Lane Westbury. A copy of the costs decision on the Semington appeal is attached as an appendix to this agenda to illustrate how Inspectors address this issue.

4.04 Officers have examined the reasons put forward by the Council for refusing the application.

4.05 *1) The application includes insufficient evidence to demonstrate that there will be no conflict between the care village and adjacent land uses at Devizes Sports Club and the police helicopter landing pad, in particular in relation to noise. As such, the proposal is contrary to policy PD1 of the Kennet Local Plan 2011*

4.06 The problem with this reason is that at appeal, the Council will have to produce substantial evidence to demonstrate that there will be unacceptable noise impacts arising from the police helicopter and sports club, and that any these issues cannot be mitigated by suitably worded planning conditions. The Council has no such substantial evidence and none was raised in the representation reported at the planning committee. There was no objection to the application from the Council's Environmental Health on noise grounds and the Council will have to explain to an Inspector why it is now considers it unacceptable to allow new properties to be built outside of the buffer zone around the

helicopter landing pad when it has already allowed new houses on the existing recently constructed Quakers Walk development to be built even closer than the properties now proposed. The proximity to the sports club is not unusual and there is no policy in the Local Plan that establishes a buffer zone around the sports club for noise reasons. In these circumstances, it is difficult to see how the Council will be able to produce substantial evidence to justify to an Inspector that this reason for refusal.

4.07 *2) The local planning authority is not satisfied that the proposal will not have an adverse impact on existing congestion levels on London road, by virtue of the fact that the scheme has not been tested using the Devizes Traffic Model. As such, the proposal is contrary to policy PD1 of the Kennet Local Plan 2011.*

4.08 At any appeal, the Planning Inspector will be looking for the Council to produce substantial evidence to demonstrate that the development will have an adverse impact on existing congestion levels on London Road. It is difficult to see where this will come from. The appellants produced a properly researched Transport Assessment with their application that was found to be acceptable by the Council's highway officers. The Council's highway officers concluded that this assessment *'has followed the required methods and parameters set out in the scoping study required by the highway authority. The traffic impact on London Road will be around 2% as a worst case which is acceptable'*. Furthermore, officers directly addressed the issue of the Devizes traffic model and concluded that it was *'not necessary'* to test it against this model as the assessment already undertaken was acceptable. The Council will therefore be unable to rely on its own officers for evidence to back up the reason for refusal and as matters stand, has no reliable evidence to demonstrate that there will be an adverse impact on existing congestion levels.

4.09 *3) The proposal may lead to an over-supply of extra care accommodation in the Devizes Community Area, and it is unclear how the scheme fits into the Council's Wiltshire Older People's Accommodation Strategy. The proposal therefore fails to contribute to a balanced, mixed tenure community, contrary to the Council's objectives as set out in the Kennet Local Plan 2011 and emerging Wiltshire Core Strategy.*

4.10 The Council's Planning Officers have discussed this reason for refusal with the Council's relevant service director. He has confirmed that there is no evidence that he is able to bring forward to justify the assertion that the proposal will lead to an over-supply of extra-care accommodation in the Devizes Community Area. The Strategy identifies that there will be a need for extra care housing and nursing/dementia care in the area.

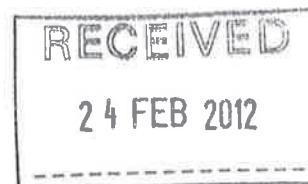
5.00 **Conclusion:**

5.01 Since the Council made its decision on this application, the NPPF has been published. This will be given significant weight by a Planning Inspector on appeal and introduces the presumption in favour of sustainable development and makes it clear that the planning system has an economic role to play in addition to its social and environmental role. This site is located within the Limits of Development in the adopted Kennet Local Plan and it is likely that this will be seen as a sustainable location for a development of this nature, in line with the NPPF.

5.02 The reasons put forward by the Council for refusing the application cannot be supported with substantive evidence. In these circumstances, officers believe that the Council leaves itself open to an award of costs for unreasonable behaviour in delaying development that should otherwise have been approved.

- 5.03 The Council cannot re-determine the application. However, it does have the option to advise the Inspector that in the light of the changed circumstances brought about by the NPPF, and on further consideration of the evidence to support its reasons for refusal, it no longer wishes to pursue these reasons. Whilst this may not remove the risk of a costs award, by giving early notice, it will both reduce the Council's own expenses and those of the appellant who will no longer have to expend significant additional resources to produce evidence to counter the council's reasons for refusal.
- 5.04 It is therefore RECOMMENDED that the Council advise the Planning Inspector that in the light of the changed circumstances brought about by the NPPF and a review of the reasons put forward, it no longer wishes to pursue the reasons put forward for refusing the application.

MIKE WILMOTT
AREA DEVELOPMENT MANAGER



Costs Decision

Inquiry opened on 1 December 2011

Site visit made on 2 December 2011

by **R J Marshall LLB Dip TP MRTPI**

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

Decision date: 24 February 2012

Costs application in relation to Appeal Ref: APP/Y3940/A/11/2156159 Land adjacent West Wiltshire Crematorium, Littleton, Semington, Wiltshire

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Mr Patrick Ward for a full, or in the alternative partial, award of costs against Wiltshire Council.
- The inquiry was in connection with an appeal against the refusal of planning permission for development described as "Change of use to small private gypsy and traveller site for 3 pitches for 8 caravans and associated ancillary works and development (including hardstanding, utility blocks, drainage etc.) and associated keeping of horses".
- The inquiry sat for 3 days on 1 and 2 December 2011 and 5 January 2012.

Decision

1. The application for an award of costs is allowed in the terms set out below.

The submissions for Mr Patrick Ward

2. The costs application was made in writing with some minor verbal additions and amendments. The essence of the case is set out below.
3. The decision to refuse permission was unreasonable. Any concerns, if valid, could have been dealt with by condition.
4. At appeal the Council failed to provide evidence or sufficient evidence to justify its reasons for refusal, contrary to Officer advice, on the impact of the proposal. Insufficient account was taken of national Guidance in *Circular 01/2006 Planning for gypsy and traveller caravan sites*.
5. The Council's concern on prematurity ignores Government Guidance and recent Inspector's decisions in this area and is not supported by substantial evidence. Contrary to Government Guidance and recent Secretary of State decisions the Council attributed undue weight to emerging Government Guidance on gypsy sites and insufficient weight to existing Guidance.
6. The Council failed at any stage to adequately assess material considerations in favour of the proposal such as the unmet need for sites, the lack of alternative sites and personal circumstances.
7. The above considerations justify a full award of costs. Should unreasonable behaviour leading to unnecessary costs be found on only some of the matters above then a partial award of costs is justified.

The response by Wiltshire Council

8. The response by the Council was made in writing and supplemented verbally. The essence of the response is set out below.
9. In issuing draft Guidance on gypsy and traveller sites a press circular indicated that current Guidance had become outdated. The Council had reasonable expectations that the new Guidance, supporting its stance, would by now have been issued.
10. Material circumstances such as need and personal circumstances were before the Committee and taken into account.
11. Should it be found that permission should not be refused for the reasons given by the Council the progress made with the Council's *Gypsy and Traveller Site Allocations Development Plan Document (DPD)* would justify a temporary permission. This would prejudice neither the appellant nor the Council pending an assessment of what sites are acceptable for permanent provision in the District.
12. It was legitimate for the Council to have regard to encroachment into the Countryside. It is a criterion of Local Plan Policy CF12 on gypsy sites and is consistent with emerging Government Guidance. Guidance on this in *Circular 01/06* on this is out of date and will soon be withdrawn.
13. The Council has provided evidence to support its case with appropriate reference to the Development Plan. The potential for nuisance to an adjoining land use is a legitimate concern and in any event took up little Inquiry time.
14. The appellant has given undue weight to past appeal decisions. All cases are to be treated on their individual merits.
15. If costs are awarded there should be a deduction for the time unnecessarily incurred by the appellant in providing excessive evidence and failing to sign a SOCG in time.

Appellant's final response

16. The reason for refusal indicates a distinction between encroachment into the countryside and impact on character and appearance. Although it may not be the view of Council Officers the Council's principal witness considers the main issue to be encroachment and that was distinct from matters of character and appearance.
17. Evidence on personal circumstances may have been before the Committee. However, this matter is dealt with in only the briefest terms in the Council's evidence and the Council has failed to show that it was taken into account in its decision.
18. As for the time the Council is seeking to have deducted from any costs award the amount of evidence provided on behalf of the appellant is no different from that supplied on other gypsy appeals and was provided to fully cover the reasons for refusal.
19. The appellant's response to the costs claim reinforces the view that undue weight was given to emerging national Guidance and local Policies on gypsy

site provision and insufficient weight on *Circular 06/2006*. The Council's approach has thus been wholly unreasonable and unlawful.

Reasons

20. Circular 03/2009 on costs advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
21. The Costs Circular says that Councils are at risk of an award of costs against them if they delay or prevent development which should clearly be permitted. It also requires that at appeal evidence should be provided to substantiate each reason for refusal. Whilst Councillors are not bound to accept Officers' recommendations reasonable planning grounds should be given for a decision contrary to them. Moreover, where appropriate, Councils are expected to show that they have considered the possibility of imposing conditions.
22. The Council's first reason for refusal is based on conflict with various requirements of Policy CF12 of the *West Wiltshire District Plan First Alteration 2004*.
23. The first 2 grounds of concern under this Policy relate to a) the impact of the proposal on the use of the adjoining crematorium and b) encroachment and the character and appearance of the area. Decisions turning on such matters are unlikely to result in an award of costs if realistic and specific evidence was given in support. However, vague, generalised or inaccurate assertions about the impact of a proposal, which are unsupported by objective analysis, are not sufficient.
24. On the effect on the crematorium no substantial evidence was provided to support an assertion that local concerns had been raised regarding anti-social behaviour on the site. Under cross examination the Council's case on the impact on the crematorium was largely narrowed down to the potential for harm caused by barking dogs. However, no substantial evidence was given to show that this is a problem generally on gypsy sites or that it has been so here. I thus consider this reason for refusal to amount to a generalised assertion unsupported by objective analysis.
25. The Council's evidence on the impact of the proposal on the character and appearance of the area was notably sparse. However, seen in the round it went beyond just a mere assertion of encroachment but to the harm that this was alleged to cause to the character and appearance of the area. In this regard it referred to the nature of development on the site, the character and appearance of the area and from where the site can be seen. Whilst I did not find this persuasive it provided a sufficient evidential basis for the stance taken to constitute realistic and specific evidence in the terms of the Cost Circular.
26. The third and fifth grounds of concern under Policy CF12 relate to pedestrian safety and whether the site is in a sufficiently sustainable location. The 2 concerns are linked in part as the Council claims that residents' worries over the safety of crossing the main road fronting the site will cut them off from facilities in the nearest village. However, concerns on pedestrian safety are unsupported by any analysis of actual traffic speeds and flows past the site. Nor has any professional or technical evidence been provided to contradict the advice of Officers or to indicate why the Council should have taken a different

view on this matter than it did when granting temporary permission for the site in 2008.

27. In sustainability terms more generally the Council's concern is that the site is in a rural location and distant from services and in a location where housing generally would not be permitted. However, the site is in reasonable proximity to a nearby village that contains a primary school and is only a few miles from 2 towns offering a good range of services. Both towns are readily accessible by main roads. Moreover, *Circular 01/2006* advises that sustainability should not only be considered in terms of transport mode and distances from services but to various wider benefits including those provided by a settled base. There is little evidence that the Council took such considerations into account. Had it done so, and had regard to the site's reasonable proximity to services, a more reasonable approach would have been taken on sustainability.
28. In part the Council's approach on the suitability of the site for what is proposed is based on a view that *Circular 01/2006* is outdated and will be replaced. However, as the Circular remains in place regard must still be had to it in determining this proposal. The Government has recently produced a consultation document *Planning for traveller sites*. However, consultation on this may prompt amendments, which reduces the weight that may be given to it at this stage. The Council's case on the weight to be given to the emerging guidance was unclear. However, the Council's statement and its written response to this costs claim, suggests that it acted unreasonably in placing too much weight upon it at this stage.
29. The Council's fourth ground of concern under Policy CF12 relates to the principle of allowing a vehicular access onto the A361 due to its status as part of a Primary Route Network. In so doing it relies on Policy T8 of the *Wiltshire and Swindon Structure Plan* which generally seeks to prevent such accesses. However, whilst that may be so, the highways authority has not recommended that this application should be refused and the Council has failed to provide any substantial evidence by way of contrary professional opinion. Matters likely to be relevant to highway safety and the free flow of traffic such as actual traffic speeds and flows, and accident statistics were not addressed in any substantial way by the Council. As such it has acted unreasonably.
30. The second reason for refusal is based on grounds that permanent permission could prejudice the emerging *Gypsy and Travellers Site Allocations Development Plan Document (DPD)* which is in effect an argument on prematurity. However, Government Guidance in *The Planning System: General Principles* requires reasons for refusal on these grounds to be supported by clear evidence on how the grant of permission would prejudice the outcome of the DPD process. The Council's evidence in support of this ground of refusal is notably sparse and does not specifically address relevant considerations such as the scale of the development and cumulative effect. It amounts to little more, therefore to an assertion that harm would arise. The view that the credibility of the DPD would be undermined by a permission in this case has insufficient regard to the weight that can currently be attached to the emerging DPD.
31. The Council's suggestion that this concern could have been overcome by a temporary permission does not greatly assist its case against the cost claim as there is no evidence that the Council had regard to this in its determination of the application.

32. Turning to other material considerations the need for a gypsy sites generally in an area, and the specific needs of those seeking sites, are important considerations given guidance in *Circular 01/2006*. However, there is scant evidence that the Council took this into account. It is said that Members would have been aware of such matters. However, no substantial evidence was provided to show how those matters were considered and balanced against the factors regarded by the Council to cause harm. Thus the Council acted unreasonably in not having due regard to a material consideration.
33. Drawing together my views the Council provided sufficiently substantial evidence, in the terms of the Costs Circular, to justify only one of its reasons for refusal. Moreover, even on that ground I found overwhelmingly for the appellant. Looking, therefore, at the case as a whole, including my findings on the Council's failure to have proper regard to the other material considerations referred to above, I consider that the Council unreasonably prevented development that should clearly have been permitted. The appellant was thus put to the unnecessary expense of appealing and a full award of costs is justified.
34. I find that unreasonable behaviour resulting in unnecessary expense, as described in Circular 03/2009, has been demonstrated and that a full award of costs is justified.
35. In arriving at this conclusion I have had regard to the Council's view that, were I to find for the appellant on costs, there should be a deduction to account for the costs that may have arisen through his unreasonable behaviour. However, that is a matter best addressed, as it was, in the Council's claim against the appellant and is the subject of a separate decision.

Costs Order

36. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Wiltshire Council shall pay to Mr Patrick Ward, the costs of the appeal proceedings, such costs to be assessed in the Senior Courts Costs Office if not agreed. The proceedings concerned an appeal more particularly described in the heading of this decision.

RJ Marshall

INSPECTOR

REPORT TO THE EASTERN AREA PLANNING COMMITTEE

Date of Meeting	26 th April 2012
Application Number	E/2012/0204/FUL
Site Address	13 Manor Bridge Court, Tidworth SP9 7NH
Proposal	Change of use of garage to form a play room for childminding
Applicant	Tashees Little Tear-A-Ways
Town/Parish Council	TIDWORTH
Grid Ref	423557 149333
Type of application	Full Planning
Case Officer	Tom Wippell

Reason for the application being considered by Committee

This application has generated a significant level of public interest.

1. Purpose of report

To consider the above application and the recommendation that planning permission be granted subject to conditions.

2. Report summary

The main issues in the consideration of this application are as follows:

1. Principle
2. Private covenants
3. Noise/disturbance from children
4. Noise/disturbance from additional traffic
5. Highway safety/parking

3. Site Description

The application relates to a detached dwelling with front and rear gardens, located at the end of a residential cul-de-sac in Tidworth. The property's driveway can accommodate 2-3 cars, and is accessed via a private hardstanding (serving 4 dwellings) at the bottom of the road. There are a further 3 on-street parking spaces close to the site, available for use by visitors / general public.

4. Relevant Planning History

None relevant to this application.

5. Proposal

The proposed development (now retrospective) seeks to convert the double garage at the front of the dwelling into a childminding business, accommodating a maximum of 6 children at any one time.



Site Location Plan

6. Planning Policy

Kennet Local Plan 2011: Policy PD1.

7. Consultations

Wiltshire Council Environmental Health - no objection subject to conditions:

“To ensure that the child minding business does not expand to a level that would be inappropriate for a residential area I recommend that conditions controlling the following matters are included on any planning permission granted:

- The operating hours of the business are 07:30 – 17:30 Monday to Friday excluding Bank Holidays.
- The maximum number of children being child minded at the premises should not exceed 6 at any time.

“I had considered the potential for excessive noise from children playing outside during the operating hours. However the property is a family house and noise from children playing would be expected in a family residential area. I do not consider that (a maximum of) 6 children would create a level of noise that would be detrimental to the area.

“Noise disturbance from vehicles on the street does not come under the remit of the Environmental Protection Act 1990 and I am therefore unable to comment on this.”

Wiltshire Council Highways – no objection:

The site has been visited and the childminding operation discussed with the applicant. The property has 3 – 4 remaining parking spaces, and typically when the childminding operation is in use there is only one car owned by the applicants on the parking area. There are

therefore 2 - 3 parking spaces for clients clear of the highway. There are also nearby layby areas on the adopted road which are suitable for clients to briefly park in to pick up or set down children. The use is low key, with not many children on site at one time.

Given these points I consider that the use can take place without highway detriment. I have no highway objections.

Tidworth Town Council - no objections. It brings much needed child-minding and local employment to the area. We are aware that the other residents of the close have concerns about the extra traffic and parking this activity brings and trust they will all try a little harder to resolve it amongst themselves.

8. Publicity

The application was advertised by site notice and neighbour consultation.

15 letters of objection were received, with the main points of objection summarised as follows:

- Private covenants apply to this estate, which would restrict this property being used as a business
- The number of additional cars using the turning area is detrimental to highway safety
- Greater risk of cars causing damage to nearby properties
- Noise and disturbance from vehicles dropping off/picking up children
- Lack of parking on applicant's driveway
- Lack of on-street parking in cul-de-sac
- Visiting cars reduce privacy and shine headlights into the immediate neighbours' living rooms in the early morning/late afternoons
- Vehicles cause noise/disturbance on nearby roads, with children being dropped off/picked up in Pennings Road and walking through to Manor Bridge Court
- Visiting vehicles often block access to the shared driveway
- Fumes from extra cars are detrimental to residential amenity
- An extra parking space should be created in the applicant's garden
- Noisy builders when garage was being constructed
- Speeding cars
- Noise from children playing outside
- Devaluation of nearby properties
- Impact on sewage system

9. Planning Considerations

9.1 Principle

In planning terms, if someone looks after a neighbour's children on the basis of an informal arrangement, there is little room for doubt that such a limited level of use would be *de minimis* and would therefore not require planning permission. In this case, it must now be considered whether this childminding business (for 6 children) has resulted in any significant harm to residential amenity and/or highway safety, above-and-beyond that which could be expected from a single dwelling, which would warrant refusing the application.

9.2 Covenants

Whilst objections have been received regarding covenants on the land, Members should note that building covenants are regarded as civil matters, and cannot be taken into account as a material planning consideration. Any private covenants restricting businesses on the housing estate should be taken up with the original builders (believed to be 'Heron Homes Limited').

9.3 Noise / Disturbance from children visiting the property

It should be noted that the valid concerns raised by the local residents in regard to the potential for noise/disturbance occurring from the childminding business have been fully assessed. However, it

is considered that the proposal will not result in any significantly harmful impact on the amenities of nearby residential properties.

The childminding business has a relatively small floorspace, with the number of children visiting the property at any one time limited to a maximum of 6. Noise and disturbance arising from this relatively small number of children is not considered to be significantly greater than what may be expected from a typical family-sized property such as this (i.e. the 'fall-back position'), even if/when the children are playing outside in the garden.

The Environmental Health Team raise no objections to the scheme, subject to the following conditions being added to any approval:

- The operating hours of the business shall be 07:30 – 17:30 Monday to Friday excluding Bank Holidays.
- The maximum number of children being child minded at the premises shall not exceed 6 at any time.

These conditions will allow the applicant to operate the business in line with OFSTED's independent recommendations for childcare provision, whilst at the same time ensuring that the local planning authority retains control over the premises in the interests of residential amenity. The applicant has viewed the suggested conditions and is happy for them to be added to any approval.

9.4 Noise / Disturbance from traffic picking-up/dropping-off children

In terms of noise/disturbance caused by vehicles dropping-off/picking-up children, whilst it is accepted that the childminding business will result in more cars entering/leaving the cul-de-sac in the early morning/late afternoons, it is considered that due to the restricted number of children allowed at the property, the limited hours of use (i.e. 07:30 – 17:30 Monday to Friday excluding Bank Holidays) and the practical layout of the cul-de-sac with ample turning / manoeuvring room, the impact on residential amenity will not be significant enough to warrant refusing the application.

Environmental Health raise no comment on this issue, as noise disturbance from vehicles on the street does not come under the remit of The Environmental Protection Act 1990.

9.5 Highway Safety / Parking

The site has been visited by the Council's Highways Officer and the business operations have been discussed with the applicant. It is considered that as the property has 2-3 visitor parking spaces for clients clear of the highway and there are also nearby layby areas on the adopted road which are suitable for clients to briefly park (to pick up or set down children); no objections are raised in terms of the impact on highway safety. The use is low key, and the limited number of children on site at one time (max 6) will not generate significant amounts of traffic.

As the property is located close to sustainable transport links such as bus routes and within walking distance of a large number of residential properties, it is considered that the site is acceptable from a sustainability perspective, as additional trips generated by visitors will be much less than if the childminding business was located in an out-of-town location.

Members should note that the applicant has offered to create a pedestrian gate at the top of the garden, so that children can be dropped off at the public visitor parking bays without going right down to the bottom of the cul-de-sac. However, as this pedestrian access would not require planning permission (under Householder Permitted Development Rights), Officers cannot consider this proposal as part of the planning application.

RECOMMENDATION:

That planning permission be GRANTED for the following reason:

The proposed development (now retrospective) seeks to convert the double garage at the front of the dwelling into a childminding business, accommodating a maximum of 6 children at any one time. It is considered that due to the relatively small scale of the childminding business, its limited operating hours and the adequate amount of on-site / public parking spaces nearby, the proposal would be acceptable in principle, would not cause any harm to residential amenity and would not cause any harm to highway safety. The development would therefore accord with the aims and objectives of the development plan, having regard in particular to policy PD1 of the Kennet Local Plan 2011.

And subject to the following conditions:

1. The use of the premises for childminding shall be limited to a maximum of six children at any one time.

REASON: To limit the intensity of use of the premises, to safeguard the amenity of neighbours and in the interests of highway safety.

2. When the childminding use hereby permitted ceases, the use of the property shall revert to a single dwellinghouse (Use Class C3).

REASON: In the interests of neighbouring amenity.

3. The childminding use hereby permitted shall only take place between the hours of 07:30 – 17:30 Monday to Friday and shall not take place at any time on Saturdays, Sundays and Bank or Public Holidays.

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

4. This development shall be in accordance with the submitted drawings deposited with the Local Planning Authority on 20/02/12, unless otherwise agreed in writing by the Local Planning Authority.

REASON: For the avoidance of doubt.

5. **INFORMATIVE TO APPLICANT:**

Any business operations at the site other than that specified in the application documentation provided may be in breach of planning control and liable to enforcement action. In addition to the planning conditions, Section 79 of The Environmental Protection Act 1990 (legislation that operates outside of the planning system) identifies noise as a statutory nuisance. If a complaint of statutory nuisance is justified an Abatement Notice can be served upon the person responsible, occupier, or owner of the premises requiring that the Nuisance be abated. Failure to comply with an Abatement Notice is an offence and legal proceedings may result.

Appendices: None

Background Documents Used in the Preparation of this Report: None

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REPORT TO THE EASTERN AREA PLANNING COMMITTEE

Date of Meeting	26 April 2012
Application Number	E/2011/1714/FUL
Site Address	Land south of 33 Avon Square Upavon Wiltshire SN9 6AD
Proposal	Construction of 5 new dwellings, with associated gardens and sheds, and 20 car parking spaces.
Applicant	Sarsen Housing Association
Town/Parish Council	UPAVON
Grid Ref	413958 154466
Type of application	Full Planning
Case Officer	Peter Horton

Reason for the application being considered by Committee

The application has been called to committee by the Division Member, Cllr. Brigadier Hall.

1. Purpose of Report

To consider the recommendation that the application be delegated to officers for approval subject to the signature of a S106 legal agreement to cover the provision of two affordable houses and the provision of financial contributions in lieu of children's play space.

2. Report Summary

The main issues to consider are whether the development of the site (currently used as a parking court) would result in a shortfall of local parking provision, whether the design of the proposed dwellings is acceptable, whether the development of houses (rather than bungalows) on the site would be harmful to the character and appearance of the area and whether the proposed dwellings would be harmful to the amenities of neighbouring properties.

3. Site Description

Avon Square, together with Watson Close, is an outlying development of ex-local authority housing situated around 0.8km south east of the centre of Upavon on the eastern side of the A342 Andover Road. The application site is a garage and parking court currently providing 16 pre-fabricated garages (in two rows, of 13 and 3) and 16 parking spaces. It is located between two lines of bungalows: nos. 29-32 Avon Square and 81-85 Watson Close, although there are houses to the rear. The site borders the open countryside.



4. Planning History

No relevant recent history.

5. The Proposal

The proposal is to redevelop the whole site, involving the demolition of the garages and to erection a terrace of 5 houses (3 two bedroom and 2 three bedroom). Each property would be allocated 2 parking spaces. There would also be 10 parking spaces for the benefit of the estate. In addition, 13 spaces would be marked and laid out in the centre of Avon Square.

Two of the properties would be affordable.



Front (north) Elevation



Rear (south) Elevation

6. Planning Policy

Kennet Local Plan policy PD1 covers matters of design, neighbour amenity and highway safety. Policy HC22 covers residential development in villages with a range of facilities. Policy HC32 covers affordable housing contributions in rural areas. Policy HC35 covers recreation provision on small housing sites.

Central government planning policy is set out in the National Planning Policy Framework March 2012.

7. Consultations

Parish Council: Objects. Welcomes the changes made to the design of the properties in both siting and reduction of roof heights which should lessen the impact upon immediate neighbours. The issue of parking gives them serious concerns. The building area concerned is a car park for 32 vehicles and was provided by Wiltshire County Council in the late 1950s / early 60s when the ten bungalows in Avon Square and the 80 plus houses were built in Watson Close. The parking Statement submitted by the applicant is misleading as it includes only 6 of the 75 dwellings in Watson Close. The additional parking proposed in the amended plans only involves Avon Square which is not convenient for residents of Watson Close and therefore does not meet the needs of the majority of the properties in this area for whom the original parking was designed.

Highway Authority: No objection subject to conditions. The amended plans overcome their initial concerns. They indicate a satisfactory way of achieving additional parking for local residents and should be helpful in removing some of the objections received.

Principal Development Officer New Housing: No objection. Policy HC32 would require 2 of the units to be affordable, which is proposed. Although the applicant is a Registered Provider of affordable housing, the Council does not have any powers to require an affordable housing contribution over and above that required by existing policy.

Amenity and Fleet: Requires the payment of a commuted sum of 5 x £2988 per dwelling = £14940 towards the improvement of existing equipped play spaces.

Arboricultural Officer: No objection subject to a landscaping condition.

8. Publicity

Objections have been received from 5 local residents. Their main objections can be summarised as follows:

- The proposed houses will be out of character with the adjacent properties, which are bungalows – there will be a step change in the roof lines;
- The proposed houses will deprive nos. 85 and 83 Watson Close of light;
- Concern at loss of the garages plus parking spaces. Parking is already difficult in the estate, especially in Watson Close;
- There has been no proper survey carried out by the applicant into the impact of the loss of parking on Watson Close;
- The proposed 1.8m fencing will be out of character with the surroundings;
- These will be family houses in the middle of a row of bungalows for elderly people;
- The estate is remote from the village and there are no employment opportunities. There is no bus service to Andover or Devizes and no amenities for young families on the estate.

9. Planning Considerations

The existing garage / parking court serves a function but is not an intrinsically attractive feature and detracts from the character and appearance of the area. The site lies within the Upavon Limits of Development. Hence no objection is raised to the principle of development of the site for housing, subject to the proposal being “in harmony with the village in terms of its scale and character” (policy HC22 refers), subject to an acceptable design (policy PD1 refers), subject to the development not harming the residential amenity of neighbouring dwellings (policy PD1 refers) and subject to there being no harm to highway safety (policy PD1 refers).

The site is flanked by two rows of bungalows, but has two storey dwellings to the rear. When viewed from the A342 Andover Road to the south, the site is read in the context of the taller development to the rear and hence the proposed terrace of houses would not appear unduly prominent or out of place. Policy HC22 is therefore satisfied. Furthermore, since the application was first submitted, the ridge height of the central 3 units has been reduced from 8.5m to 8.0m, and rear gables added to the two end units. These amendments have helped reduce the bulk of the roof and to increase the interest of the rear elevation, of benefit when viewing the site from Andover Road. The design is not exceptional (brick, with concrete roof tiles and UPVC windows), but is considered acceptable in this location.

The proposed terrace would be situated due south west of the bungalows at nos. 81-85 Watson Close and beyond their rear building line. This will cause the loss of some late afternoon / evening sun to these properties. However (following the receipt of revised plans) the proposed terrace will now be situated 4.5m off the boundary with 85 Watson Close (it was originally to be 2m). It is therefore considered that the amenity of the occupiers of no. 85 will not be materially harmed. Furthermore, the occupiers of no. 85 have written to say they “welcome the plans for the proposed dwelling”, although they “would have preferred bungalows”. What is more, although

they express concern at the loss of parking, they do not cite a concern about loss of light or residential amenity.

Parking in the estate can be a problem out of working hours. The key consideration with regard to this planning application is the extent to which the 32 parking and garage spaces currently on the site contribute towards meeting present need and whether or not the proposed parking provision (10 spaces for the new development, 10 general spaces plus the laying out of 13 spaces in Avon Square) would lead to an exacerbation of existing problems.

It is not possible to ascertain from surveys how well used the existing 16 garages are, but is known that 13 of them are let. However evening surveys by both the applicant's transport consultants and Wiltshire Council officers have revealed only 3 to 5 of the 16 car parking spaces ever being used.

Of the 13 let garages, a maximum of 8 cars are likely to be displaced by the proposed demolition, as 5 of the users are either extremely remote from the site or have alternative on plot parking. Adding these 8 cars to the maximum surveyed use of the car park of 5 gives a displacement of 13 vehicles by the proposed development for which alternative provision should be made. 10 spaces are proposed within the site and 13 within Avon Square. This gives a considerable betterment to the area compared to the existing situation. Hence the Highway Authority raises no objection to the proposal.

The Parish Council has made the point that the parking requirement for the whole estate is greater than availability based on a requirement of 2 spaces for each 2/3 bedroom dwelling and 1.5 spaces for each 2 bedroom bungalow. The point is also made that future occupancy and hence parking demand may go up in the future as and when dwellings get re-occupied by a less elderly population. However the Highway Authority would not wish to justify a refusal on this basis given that the current thrust of planning policy is to reduce car use.

Two affordable units are proposed, which satisfies policy HC32. These can be secured via a S106 legal agreement, as can the recreation contribution required to satisfy policy HC35.

10. Conclusion

The design of the proposed dwellings is acceptable. They will not be harmful to the character and appearance of the area and will not materially harm the amenity of nearby dwellings. In view of the comparatively low levels of use of the existing garages and parking spaces on the site, and given the replacement provision that is proposed, the proposed development will not lead to a parking shortfall such that a refusal of the application on highways grounds cannot be justified. The application provides the requisite amount of affordable housing.

RECOMMENDATION

That the application be delegated to officers for approval subject to the signing of a S106 legal agreement for the following reason and subject to the conditions set out below:

The decision to grant planning permission has been taken on the grounds that the proposed development would not cause any significant harm to interests of acknowledged importance and having regard to Kennet Local Plan 2011 policies PD1, HC22, HC32 and HC35 and to central government planning policy set out in the National Planning Policy Framework.

- 1 The development hereby permitted shall be begun before the expiration of three years of 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 INFORMATIVE TO APPLICANT:

This permission shall be read in conjunction with an Agreement made under Section 106 of the Town and Country Planning Act, 1990 and dated the *****.

- 3 Within three months of the commencement of development the additional off-site vehicle parking spaces in Avon Square shall have been provided and marked out in accordance with the details shown on plan no. 3326/010/E, and shall thereafter be maintained and kept available for the use of local residents.

REASON: To ensure that compensatory parking spaces get provided, to make up for the parking lost in developing the application site, in the interests of highway safety and the amenity of local residents.

- 4 No development shall take place until details of the materials to be used for the external walls and roofs (including samples) 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 secure harmonious architectural treatment.

- 5 Before any work commences on site the ground floor slab levels shall be agreed in writing with the local planning authority. Development shall be carried out in accordance with the approved details.

REASON: In the interests of visual amenity.

- 6 No development shall take place until there has been submitted to and approved by in writing by the local planning authority a scheme of hard and soft landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development. Details shall also include species, sizes at planting, densities, location and numbers.

REASON: To ensure a satisfactory landscaped setting for the development.

- 7 All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the dwellings or the completion of the development whichever is the sooner; any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the local planning authority.

REASON: To ensure a satisfactory landscaped setting for the development.

- 8 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking or re-enacting or amending that Order with or without modification), there shall be no additions to, or extensions or enlargements of any dwelling forming part of the development hereby permitted.

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

9 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking or re-enacting or amending that Order with or without modification), no windows or other form of openings shall be inserted above ground floor level in the east elevation of the development hereby permitted.

REASON: In the interests of residential amenity and privacy.

10 Before any part of the development hereby permitted is first occupied the access road and on-site footways shall be completed in accordance with the details on the approved plans.

REASON: In the interests of highway safety.

11 Before any part of the development hereby permitted is first occupied the on-site vehicle parking and turning areas shall be completed in accordance with the details shown on the approved plans, and shall thereafter be maintained and kept available for these purposes.

REASON: In the interests of highway safety.

12 This decision relates to documents/plans submitted with the application, listed below. No variation from the approved documents should be made without the prior approval of this Council. Amendments may require the submission of a further application. Failure to comply with this advice may lead to enforcement action which may require alterations and/or demolition of any unauthorised buildings or structures and may also lead to prosecution.

Plan Ref. 3326/013 received 19/12/11, 3326/011 Rev C received 17/02/12 and 3326/010 Rev E received 06/03/12

Appendices: None

Background Documents Used in the Preparation of this Report: None