

AGENDA

Meeting: Western Area Planning Committee
Place: Council Chamber - County Hall, Trowbridge BA14 8JN
Date: Wednesday 5 February 2014
Time: 6.00 pm

N.B: A briefing for Committee Members and Substitutes has been arranged in the Council Chamber at 4.30pm, prior to the Scheduled Committee. The briefing will focus on the Core Strategy and future Committee arrangements.

Please direct any enquiries on this Agenda to Samuel Bath, of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 718211 or email samuel.bath@wiltshire.gov.uk

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

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

Membership:

Cllr Trevor Carbin	Cllr Christopher Newbury
Cllr Ernie Clark	(Chairman)
Cllr Andrew Davis	Cllr Horace Prickett
Cllr Russell Hawker	Cllr Pip Ridout
Cllr John Knight	Cllr Jonathon Seed
Cllr Magnus Macdonald	Cllr Roy While (Vice Chairman)

Substitutes:

Cllr Nick Blakemore	Cllr Gordon King
Cllr Rosemary Brown	Cllr Helen Osborn
Cllr Terry Chivers	Cllr Jeff Osborn
Cllr Dennis Drewett	Cllr Graham Payne
Cllr Keith Humphries	Cllr Fleur de Rhé-Philippe
Cllr David Jenkins	

AGENDA

1 **Chairman's Announcements**

To receive any announcements from the Chairman.

2 **Apologies for Absence**

To note any apologies for absence.

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

To approve the minutes of the last meeting held on 18 December 2013 (copy attached.)

4 **Declarations of Interest**

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

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 Wednesday 29 January 2014**. 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 **Right of Way Items**

To consider and determine the following Right of Way applications

- 6a **The Wiltshire Council North Bradley 1 (Part) Extinguishment Order and Definitive Map Modification Order** *(Pages 11 - 24)*

7 **Planning Applications**

To consider and determine the following planning applications:

- 7a **13/02820/FUL - 202a Devizes Road, Hilperton, Trowbridge, Wilts, BA14 7QR** *(Pages 25 - 30)*

- 7b **13/06123/FUL - Lansdowne, Littleton, Semington** *(Pages 31 - 42)*

- 7c **13/05142/FUL - Land to the Rear of 63 Shaw Hill, Shaw, Wiltshire** *(Pages 43 - 54)*

- 7d **13/04201/FUL - Ellbridge Farm, Lower South Wraxall, Bradford On Avon, Wiltshire, BA15 2RR** *(Pages 55 - 64)*

- 7e **13/05406/FUL - 2 The Downlands, Warminster, Wilts, BA12 0BD** *(Pages 65 - 72)*

- 7f **13/06834/VAR - Land to the Rear of 90, 88a and 88b Dursley Road, Trowbridge, Wiltshire** *(Pages 73 - 80)*

8 **Urgent Items**

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

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WESTERN AREA PLANNING COMMITTEE

DRAFT MINUTES OF THE WESTERN AREA PLANNING COMMITTEE MEETING HELD ON 18 DECEMBER 2013 IN THE COUNCIL CHAMBER - COUNTY HALL, TROWBRIDGE BA14 8JN.

Present:

Cllr Trevor Carbin, Cllr Ernie Clark, Cllr Andrew Davis, Cllr Russell Hawker, Cllr John Knight, Cllr Magnus Macdonald, Cllr Christopher Newbury (Chairman), Cllr Horace Prickett, Cllr Pip Ridout and Cllr Roy While (Vice Chairman)

Also Present:

Cllr Terry Chivers

119 Apologies for Absence

Apologies for absence were received from Cllr Jonathon Seed.

120 Minutes of the Previous Meeting

The minutes of the meeting held on 27 November 2013 were presented.

Resolved:

To approve and sign the minutes of the meeting held on 27 November 2013 as a true and accurate record.

121 Chairman's Announcements

There were no Chairman's Announcements. The Democratic Services Officer gave details of the exits to be used in the event of an emergency.

122 Declarations of Interest

Cllr Davis stated that he had sat on Warminster Town Council for a decision on item 13/04478/FUL: Land East of 73 Ruskin Drive, Warminster. Cllr Davis had not previously voted on this application.

123 Public Participation and Councillors' Questions

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

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

124 **Planning Applications**

The Committee considered the following applications:

125 **13/04760/FUL: 188 Woodrow Road, Melksham, Wiltshire, SN12 7RF**

Public Participation

Mr Richard Cosker spoke in support of the Application.

The Development Control Team Leader (Central Area) outlined the Officers report which recommended the application for refusal. The site was outlined and the wider location of the application was identified. The application sought to demolish the existing dwelling on the site and to replace it with two detached four bedroom dwellings with access and parking. Cllr Terry Chivers had called the application to committee following the recommendation to refuse.

The Development Control Team Leader (Central Area) outlined the relevant planning policy for consideration including the West Wiltshire Local Plan, Policies: C1 – Countryside Protection, C31a- Design, C38 – Nuisance, H1 – Further Developments within Towns and H19 Developments in Open Countryside.

The Committee were then invited to ask technical questions of the application. Members questioned the location of the site, and its finite definition as open countryside or as falling outside the village settlement boundary.

Members of the public were then given the opportunity to speak, as listed above.

Cllr Chivers stated that there was no local objection to the development, and that members should be mindful of this when making their decision. Cllr Chivers also cited previous developments in the area which had been approved.

Members debated the wording of open countryside, and the relevance to the application, and also discussed the impact of a decision against policy.

Following the debate, a motion to refuse the application was tabled and defeated. It was then:

Resolved:

To GRANT planning permission for the application 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) 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.

- 3) Prior to the occupation of the dwellings hereby approved the windows in the first floor side elevations serving the bathroom shall be glazed with obscure glass.

REASON: In the interests of residential amenity and privacy.

- 4) No development shall commence on site until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include:
 - a) finished levels and contours;
 - b) means of enclosure;
 - c) car park layouts;
 - d) other vehicle and pedestrian access and circulation areas;
 - e) all hard and soft surfacing materials;

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

- 5) All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

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

- 6) The development hereby approved shall be carried out in accordance with the Flood Risk Assessment dated March 2013 received by the Local Planning Authority on 24th September 2013

REASON: To minimise the risk of flooding

- 7) The development hereby approved shall be carried out in accordance with the bat roost inspection dated 12th February 2013 received by the Local Planning Authority on 24th September 2013.

REASON: To ensure that protected species are not harmed

- 8) The development hereby permitted shall not be first brought into use until the first five metres of the access, measured from the edge of the carriageway, has been consolidated and surfaced (not loose stone or gravel). The access shall be maintained as such thereafter.

REASON: In the interests of highway safety.

- 9) The dwellings hereby approved shall not be occupied until the access, turning area and parking spaces have been completed in accordance with the details shown on the approved plans. The areas shall be maintained for those purposes at all times thereafter.

REASON: In the interests of highway safety.

- 10) The development hereby permitted shall not be occupied or first brought into use until the area between the nearside carriageway edge and a line drawn 2.0 metres parallel thereto over the entire site frontage has been cleared of any obstruction to visibility at and above a height of 900mm above the nearside carriageway level. That area shall be maintained free of obstruction at all times thereafter.

REASON: In the interests of highway safety.

- 11) No development shall commence on site until a scheme for the discharge of surface water from the site (including surface water from the access/driveway), incorporating sustainable drainage details, has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first brought into use until surface water drainage has been constructed in accordance with the approved scheme.

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

- 12) Any gates shall be set back 4.5 metres from the edge of the carriageway, such gates to open inwards only.

REASON: In the interests of highway safety.

- 13) No development shall commence on site until the soakaway design for the discharge of surface water from the site, incorporating percolation tests, soakaway details and calculations (in accordance with BRE Digest 365), has been submitted to and approved in writing by the Local Planning Authority. The development hereby approved shall not be first occupied until surface water drainage has been constructed in accordance with the approved scheme.

REASON: To ensure that the development can be adequately drained to soakaways in accordance with BRE Digest 365.

- 14) The development hereby permitted shall be carried out in accordance with the following approved plans:
TK/pk received on 24th September 2013

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

It is important for the applicant to note the following informatives requested by the Environment Agency:

INFORMATIVE: Including flood-proofing methods within the construction of the new homes will further protect the buildings from potential flood damage. The applicant can refer to the publication at the following link for further guidance: <https://www.gov.uk/government/publications/flood-resilient-construction-of-new-buildings>

INFORMATIVE: The surface water soakaways may require the approval of the Local Authority's Building Control Department and should be constructed in accordance with the BRE Digest No 365 or CIRIA Report 156 "Infiltration Drainage, Manual of Good Practice". Only clean, uncontaminated surface water should be discharged to soakaway.

Cllr Ernie Clark and Cllr Christopher Newbury requested that their vote against the application be recorded.

126 **13/04779/FUL: Staverton CofE School, School Lane, Staverton, Trowbridge, BA14 6NZ**

Public Participation

Ms Wendy Grant spoke in objection to the application.

Mr Mark Frati spoke in objection to the application on behalf of Staverton Parish Council.

The Senior Planning Officer outlined the report which recommended the application for approval. The application was for retrospective permission following the erection of a shed on School Grounds close to the perimeter boundary of an adjoining land owner. The application had been called to committee by Cllr Trevor Carbin.

The Senior Planning Officer outlined the application, and noted the site of the application, and the impact on neighbouring properties. This included the objections raised on the impact of light intrusion and shadowing as a result of the shed's location.

The Senior Planning Officer outlined the relevant planning policy for consideration including the West Wiltshire District Plan 1st Alteration 2004 Policies: C1 – Countryside Protection, C31a- Design, C38 - Nuisance and CF1 – General Community Facilities.

Members were then invited to ask technical questions of the application. Members questioned the distance of the shed in relation to the boundary, and the impact on both the schools existing facilities should the barn be relocated, and the impact on residents should permission be granted.

Members of the public were then given the opportunity to speak, as listed above.

The Committee then debated the application and discussed the possibility of relocating the shed to reduce the impact on local residents. At the end of the debate it was;

Resolved:

To DEFER the application in order to allow for discussions between residents and the school to take place, with regard to identifying a suitable alternative location for the shed.

127 **13/04478/FUL: Land East Of 73 Ruskin Drive, Warminster**

Public Participation

Mr Mark Reynolds spoke in support of the application.

The Development Control Team Leader (Central Area) outlined the Officers report which recommended the application for approval. The site was outlined and the relevant planning history noted. A number of objections including local

residents and highways were presented by the Development Control Team Leader (Central Area).

The application proposed to create a new dwelling within the grounds of the applicants existing semi detached property at 73 Ruskin Gardens, to form a line of three terraced houses with near identical proportions.

The Development Control Team Leader (Central Area) outlined the relevant planning policy for consideration including the West Wiltshire District Plan 1st Alteration 2004, Policies: C31a- Design, C38 – Nuisance and H1 – Further Developments within Towns.

The Committee were then invited to ask technical questions of the application, of which there were none.

Members of the public were then given the opportunity to speak, as listed above.

Cllr Pip Ridout stated as the local member that although the application had overcome the previous barriers, the main concerns were those of the three vociferous objectors, who could not be ignored.

The Committee debated the application and agreed that the application met the criteria for development. It was;

Resolved:

To APPROVE the application 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.

- 3. The development hereby permitted shall not be occupied until the first three metres of the accesses, measured from the edge of the carriageway, has been consolidated and surfaced (not loose stone or gravel). The accesses shall be maintained as such thereafter.**

REASON: In the interests of highway safety.

4. The development hereby permitted shall not be occupied or first brought into use until the area between the nearside carriageway edge and a line drawn 2 metres parallel thereto over the entire site frontage has been cleared of any obstruction to visibility at and above a height of 600mm above the nearside carriageway level. That area shall be maintained free of obstruction at all times thereafter.

REASON: In the interests of highway safety.

5. No development shall commence on site until visibility splays have been provided between the edge of the carriageway and a line extending from a point 2.4 metres back from the edge of the carriageway, measured along the centre line of the access to the junction to the north and 43 metres to the south from the centre of the access in accordance with the approved plans. Such splays shall thereafter be permanently maintained free from obstruction to vision above a height of 600mm above the level of the adjacent carriageway.

REASON: In the interests of highway safety.

6. The development hereby approved shall not be occupied until sufficient provision for the parking of two vehicles has been provided for, in accordance with details as shown on plan reference 820/2 received on the 01 October 2013. The garage shall remain as a permanent parking facility for the new dwelling and shall not be separately let or sold but retained in perpetuity for the provision of car parking.

REASON: To ensure that adequate provision is made for parking within the site in the interests of highway safety

7. The development hereby permitted shall be carried out in accordance with the following approved plans:
drawing number 820/1 received on the 01 October 2013
drawing number 820/2 received on the 01 October 2013
reason: for the avoidance of doubt and in the interests of proper planning.

INFORMATIVE: the consent hereby granted shall not be construed as authority to carry out works on the highway. The applicant is advised that a license may be required from Wiltshire's highway authority before any works are carried out on any footway, footpath, carriageway, verge or other land forming part of the highway.

INFORMATIVE: the applicant is advised to contact Wessex water direct on 01225 526 000 with regard to the connection of water and waste supplies for this proposed development.

128 **13/04560/FUL: 164 Bath Road, Atworth, Melksham, SN12 8JR**

Public Participation

Mr Simon Filipowicz spoke in support of the application.

The Senior Planning Officer outlined the report which recommended the application be granted planning permission. The applicant proposed to erect a single storey, flat roofed extension to an existing property, which would house a garage.

The Senior Planning Officer outlined the relevant planning policy which included: West Wiltshire District Plan 1st Alteration 2004, Policies: C31a- Design and C38 – Nuisance.

Atworth Parish Council had been consulted as part of the planning process and had highlighted neighbours concerns over the impact on the existing dry stone wall which separates the applicant's property from the neighbouring property.

Members were invited to ask technical questions of the application, to which there were none.

Members of the public were invited to speak as detailed above.

Members then debated the application and at the close of debate, it was;

Resolved:

To APPROVE the application 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.

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

Drwg. 1339-1 received 26.09.2013

Drwg. 1339-2 received 26.09.2013

Site location plan received 26.09.2013

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

129 Urgent Items

There were no Urgent Items.

(Duration of meeting: 6.00 - 7.25 pm)

The Officer who has produced these minutes is Samuel Bath, of Democratic Services, direct line 01225 718211, e-mail samuel.bath@wiltshire.gov.uk

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

WILTSHIRE COUNCIL

AGENDA ITEM NO. 6a

WESTERN AREA PLANNING COMMITTEE

5 FEBRUARY 2014

HIGHWAYS ACT 1980 AND WILDLIFE AND COUNTRYSIDE ACT 1981

THE WILTSHIRE COUNCIL NORTH BRADLEY 1 (PART) EXTINGUISHMENT ORDER AND DEFINITIVE MAP AND STATEMENT MODIFICATION ORDER 2013

Purpose of Report

1. To:
 - (i) Consider objections received to the making of The Wiltshire Council North Bradley 1 (Part) Extinguishment Order and Definitive Map Modification Order 2013, under Section 118 of the Highways Act 1980. The order map showing the proposal is attached at **Appendix 1**.
 - (ii) Recommend that the Order be forwarded to the Secretary of State for the Environment, Food and Rural Affairs for confirmation with the recommendation that the objections be dealt with by the written representation procedure.

Background

2. The land over which this section of North Bradley Footpath 1 runs is owned by Doric Developments who have leased it to Trowbridge Town Council. The Town Council leases the land to Trowbridge Town Football Club. Throughout 2011 and since, the club's premises have been affected by numerous incidents of crime and anti-social behaviour, including vandalism to buildings, dugouts and stands. This has cost the club in excess of £4,000 in repair or replacement costs and is threatening its viability. Dog walkers using the site often fail to clean up after their pets. Although the club tries to keep the pitch clean, there have been unpleasant incidents of young football players sliding through dog excrement which has been left behind. Consequently, the club is concerned at the risk to its players, visitors and staff of infection from Toxocariasis, which can lead to blindness in some cases. In 2011 the Football Club spent £20,000 on fencing the recreation ground to make it more secure but this was severely vandalised last year.
3. The club, which is run on a not for profit basis, asked Wiltshire Council to make an application to the Magistrates' Court for an Order under Section 116 of the Highways Act 1980 to stop up the footpath. The application was heard in Chippenham Magistrates' Court on 22 January 2013. Mr Morland, who was at that time the Councillor for the Southwick and North Bradley Electoral Division, raised an objection to the Council using the procedure under Section 116 to close the footpath as he thought the appropriate mechanism to do this was under Section 118 of the Highways Act 1980. Mr Morland did not object to the actual closure of the footpath across the playing field. The Magistrates did not grant the application for an Order stopping up the footpath because they did not accept that the pavement along Woodmarsh Road would be an adequate alternative for the public to use.

4. The club is still experiencing vandalism and anti-social behaviour in the playing field and feels the recreation field cannot be managed effectively with this short section of Footpath 1 crossing the recreation ground as this restricts its ability to completely fence off the field. Whilst the club would prefer to close the footpath across the recreation ground permanently, it did offer an alternative.
5. On 8 February 2014 a further consultation was undertaken to seek views on either diverting the footpath or extinguishing it. Rather than just conduct the usual consultation exercise with the local parish council, statutory undertakers and user groups, an attempt was made to engage with users of the path at an early stage by posting a letter addressed to members of the public with a plan at either end of the footpath at the recreation field, seeking views on either the diversion or extinguishment of the path. Only four replies were received which could be linked with this consultation letter:
 - (i) Mr Oliver of Woodmarsh said he wished to register his disapproval of the change as he believed the path was 'in existence long before the footballers ever dreamt of using the field at Woodmarsh for football, I do feel the footballers have isolated themselves from the residents of Woodmarsh, that I believe is why so much vandalism is caused in the field.'

Mr Oliver did not say he used the footpath.

- (ii) Mr Walters of Lydiard Way, Trowbridge stated 'I say that I support your proposed alteration of the route within the site and object to the football club's original proposal to remove the footpath entirely. I have used the site for the past sixteen years to exercise my dogs, always cleaning up after them, and have seen it used by other dog walkers, golfers and children when the snow is around. I may be wrong, but I had always understood that the field was for public use and I was most peeved when the football club started fencing it off.'

Mr Walters's comments paint a picture of a more generalised use of the field by the public rather than the public walking along the route of the actual path.

- (iii) Mr D Elliott e-mailed to say he 'uses the path at least four times a week' but he also says 'I usually avoid using parts of the football pitch to help preserve the condition of the grass which is being used to play football on. I also don't use this path when football is being played as I think that it will disrupt any football match if I was to walk through it.'

The football pitch does not lie across the footpath. This comment and the comment Mr Elliott also made about rubbish left on and around the pitch all suggest to officers that Mr Elliott does not confine his walking to the line of the footpath but uses the field as a whole for general access.

- (iv) Debbie Elliott of Wiltshire Drive, Trowbridge e-mailed to state 'We use this pathway on a daily basis and did think that Trowbridge Football Club would, yet again, get its own way. However, your decision to divert the path slightly would be acceptable, rather than what the football club wanted, which was to keep people out of the field totally.'

6. Officers noted that the grass along the route of the footpath shows no sign of regular use. The only sign of regular use on the line of the path is at the access points into the field from Axe and Cleaver Way and Woodmarsh Road. The consultation exercise did not bring to the Council's attention any notable demand or need to use that section of North Bradley Footpath 1 which crosses a corner of the recreation field.
7. Officers considered from the evidence before them that there is little actual use made of the footpath by the public.
8. Section 118(1) of the Highways Act 1980 states that:

'Where it appears to a council as respects a footpath, bridleway or restricted byway in their area (other than one which is a trunk road or a special road) that it is expedient that the path or way should be stopped up on the ground that it is not needed for public use, the council may by order made by them and submitted to and confirmed by the Secretary of State, or confirmed as an unopposed order, extinguish the public right of way over the path or way. An order under this section is referred to in this act as a 'public path extinguishment order'.
9. Section 118(2) of the Highways Act 1980 states:

'The Secretary of State shall not confirm a public path extinguishment order and a council shall not confirm such an order as an unopposed order, unless he or, as the case may be, they are satisfied that it is expedient so to do having regard to the extent (if any) to which it appears to him or, as the case may be, them that the path or way would, apart from the order, be likely to be used by the public, and having regard to the effect which the extinguishment of the right of way would have as respects land served by the path or way, account being taken of the provisions as to compensation contained in Section 28 above as applied by Section 121(2) below.'
10. Officers concluded it was expedient to extinguish the 145 metre length of Footpath North Bradley 1 as shown on the plan at **Appendix 1** because it is not needed for public use, the test to be applied in deciding whether or not an Order ought to be made in Section 118(1) of the Highways Act 1980. The test was considered in the case of R v Secretary of State for the Environment ex parte Stewart [1980] JLP 175. The path could be needed by some members of the public but if it was not needed by many of them, then the extinguishment order could be confirmed.
11. On the 25 April 2013 an Order was made providing for the extinguishment as outlined above.
12. Notice of the making of the Order was circulated to all interested parties, posted on site and advertised in a local newspaper. This was followed by a statutory objection period of 28 working days, during which time two objections were received from Mr Peter Oliver and Mr Francis Morland. The objections to the making of the Order are set out below and copies of the objections are attached at **Appendix 2**.

13. Mr Peter Oliver wrote on 21 May 2013 making the following points:

'I cannot see any reason for the closure or modification to the layout. It is an ancient footpath that was there before Even I was born or any of the people using the playing field and should remain untouched and unmodified for future generations to come.

My wife and I do use the footpath if only occasionally just to keep it open'.

14. Mr Francis Morland e-mailed on 3 June to state:

'I wish to object to the above Order made on 25 April 2013.

At a hearing on Tuesday, 22 January 2013, the Magistrates' Court at Chippenham determined that the footpath in question was not unnecessary for public use and therefore declined to make an Order to stop it up under Section 116 of the Highways Act 1980.

There have been no material changes of circumstance in the three months following that decision to justify the Order now made by Wiltshire Council, which is a clear abuse of its ordermaking powers.

I remain deeply unhappy that Wiltshire Council has not carried out the measures I proposed in my e-mails sent 16 April 2012 and 08 August 2012, which I believe are essential before any further steps are taken to revisit the Magistrates' decision on the basis of a subsequent change of circumstances.

I reserve the right to amend or add to the grounds of my objection to the Order.'

15. In his e-mail dated the 16 April Mr Morland stated:

'As you know, I do not favour the use of the Magistrates' Court's power to stop up highways except where no alternative powers exist for Wiltshire Council itself to make an Order (for example, where there are public vehicular rights over the highway in question). In this particular case, as far as I am aware, the way is not recorded as having any public rights over it other than as a footpath, so these alternative powers are available under Sections 118 and 119 of the Highways Act 1980.

Having heard the views of North Bradley Parish Council, I do not have any other objection to the stopping up of this length of footpath, but I consider that it should be made strictly conditional on the formal dedication of and addition to the relevant Definitive Map and Statement as a footpath of at least 2 metres in width of the existing way directly linking Boundary Walk to Bradley Road, Trowbridge at a point approximately 80 metres north of point A across land in the same ownership as North Bradley Footpath 1.

It seems to me that this will provide the public with a more commodious route on foot from Boundary Walk to Bradley Road than the existing route via NBRA2, NBRA3 and NBRA1 and gives a proper statutory basis for linking the two proposals together (whether formally as a Diversion of NBRA1 or otherwise).'

16. Due to the objections received, the Order now falls to be considered by the Western Area Planning Committee whose Members should consider the legal tests for extinguishment against the objections received, in order to decide whether or not Wiltshire Council continues to support the making of the Order.

17. Where the Authority continues to support the making of the Order, it should be forwarded to the Secretary of State for determination, with a recommendation from Wiltshire Council that the Order be confirmed without modification, or with modification.
18. Where the Authority no longer supports the making of the Order, it may be withdrawn with reasons given as to why the legal tests for extinguishment are no longer met. The making of a Public Path Extinguishment Order is a discretionary duty for the Council, rather than a statutory duty; therefore, the Order may be withdrawn at any time.

Main Considerations for the Council

19. The Extinguishment Order has been made under Section 118 of the Highways Act 1980, the provisions of which are set out in paragraphs 8 and 9 above.
20. Section 118 of the Highways Act 1980 allows the highway authority to extinguish a footpath where it considers it expedient to do so as the footpath is infrequently used by the public. Officers believe this legal test has been satisfied, please see paragraph 10 above.
21. In making creation agreements and creation, diversion and extinguishment Orders, Sections 29 and 121(3) of the Highways Act 1980 require authorities to have due regard to the needs of:
 - (a) agriculture and forestry, and
 - (b) the desirability of conserving flora, fauna and geological and physiographical features.
22. Section 40 of the Natural Environment and Rural Communities Act 2006 also places a duty on every public authority exercising its functions to have regard to the conservation of biodiversity, so far as is consistent with the proper exercise of those functions. In this section, conserving biodiversity includes that in relation to a living organism, or type of habitat and restoring or enhancing a population or habitat.
23. There are no considerations for agriculture and forestry over this site. With regard to conserving flora, fauna and geological and physiographical features and biodiversity, the County Ecologist has been consulted regarding the proposal and no adverse comments were received.

Comments on the Objections

24. Neither of the two objections address the legal test to be applied in deciding whether it is expedient for the Council to extinguish the length of North Bradley Footpath 1 which crosses the recreation field that is whether the footpath is needed for public use. Although Mr Oliver does say he and his wife use the footpath occasionally, it is clear from the 'Stewart' case mentioned in paragraph 10 above that even though a path could be needed by some members of the public, if it was not needed by many then an extinguishment order could be confirmed. The Council is not aware of any significant public need to use the route Footpath 1 takes across a corner of the recreation field.

25. Mr Oliver's comment that *'I cannot see any reason for the closure or modification to the layout. It is an ancient path that was there before Even I was born or any of the people using the playing field and should remain untouched and unmodified for future generations to come'* is not a relevant consideration to be taken into account in determining whether an order for the extinguishment of a path ought to be either made or confirmed.
26. Mr Morland has acknowledged that the Council has the appropriate power to extinguish this section of Footpath 1 under Section 118 Of the Highways Act 1980. He has also confirmed that he has no other objection to the stopping up of this length of path but he does want this conditional on the dedication of another path on the same landowner's land. The Council does not have the power to make the extinguishment conditional on the dedication of another route. However, the Council has worked with the owner of the land, the football club and other interested parties to secure, as a public footpath, the route Mr Morland desires to be recorded as a public footpath. Once the proposed path is brought up to a standard acceptable to the Council, officers will arrange for it to be formally dedicated as a public footpath and added to the definitive map and statement. Work on the path to be dedicated will start early in the New Year.

Safeguarding Considerations

27. None.

Public Health Implications

28. None.

Environmental Impact of the Recommendation

29. None.

Risk Assessment

30. Trowbridge Town Football Club is seeking the extinguishment of that part of North Bradley Footpath 1 which crosses the field as the closure will enable the Club to fence the entire perimeter of the field and therefore control public access to it. The only section of the field the public currently have a right to access is along the line of the footpath. The public do not have a right to walk or make other uses of the field. The field is in private ownership. If the Order to extinguish the footpath is confirmed and the Football Club chooses to erect a perimeter fence the Council may receive comments from the public about the fencing. The decision of whether or not to fence land rests with the owners and occupiers of the land. The fact that the field may be fenced at some point in the future if the footpath is extinguished is not a relevant consideration that can be taken into account in considering the objections to the making of the Order which is the subject of this report.

Financial Implications

31. The applicant has agreed, in writing, to meet the actual costs to the Council in processing the Order, which includes staff time and the costs of advertising the making of the Order and the confirmation of the Order in one local newspaper.
32. If the Order is withdrawn by Wiltshire Council, the Order is not confirmed and there are no additional costs to the applicant or the Council. However, although there is no form of appeal process against the Council's decision to withdraw the Order, the Council's decision is open to Judicial Review and clear reasons must be given for the withdrawal of the Order.
33. If the Order is forwarded to the Secretary of State for decision, the Order will be determined by written representations, hearing or local Public Inquiry, all of which have a financial implication for the Council as none of these costs can be passed to the applicant. If the case is determined by written representations, the cost to the Council is negligible; however, where a local hearing is held, the costs to the Council are estimated at £200 - £500 and £1,000 - £3,000 where the case is determined by local Public Inquiry.

Options Considered

34. Having considered the objections received against the legal tests for extinguishment there are two options available to Members of the Committee.
 - (i) Where Members of the Committee no longer support the making of the Order in the light of the objections received, the Order may be withdrawn. The making of a Public Path Extinguishment Order is a discretionary duty for the Council rather than a statutory duty; therefore, the Order may be withdrawn at any time. Although there is no appeal procedure for the landowner where the Order is withdrawn, the Council's decision is open to Judicial Review and reasons why the Order no longer meets the legal tests should be clearly stated.
 - (ii) Where Members of the Committee consider that the Order continues to meet the legal tests for the making and confirmation of a Public Path Extinguishment Order, the Order should be forwarded to the Secretary of State for determination through the written representation procedure, with a recommendation from Wiltshire Council that the Order be confirmed without modification.

Reasons for Recommendation

35. Despite the objections received, it is considered, for the reasons given within the report that the making of The Wiltshire Council North Bradley 1 (Part) Extinguishment Order and Definitive Map Modification Order 2013 continues to meet the legal tests for the making and confirmation of an extinguishment order under Section 118 of the Highways Act 1980.

Recommendation

36. That “The Wiltshire Council North Bradley 1 (Part) Extinguishment Order and Definitive Map Modification Order 2013”, be forwarded to the Secretary of State for determination through the written representation procedure, with a recommendation from Wiltshire Council that the Order be confirmed without modification.

Tracy Carter

Associate Director of Environment and Leisure

Report Author

Barbara Burke

Definitive Map and Highway Records Team Leader

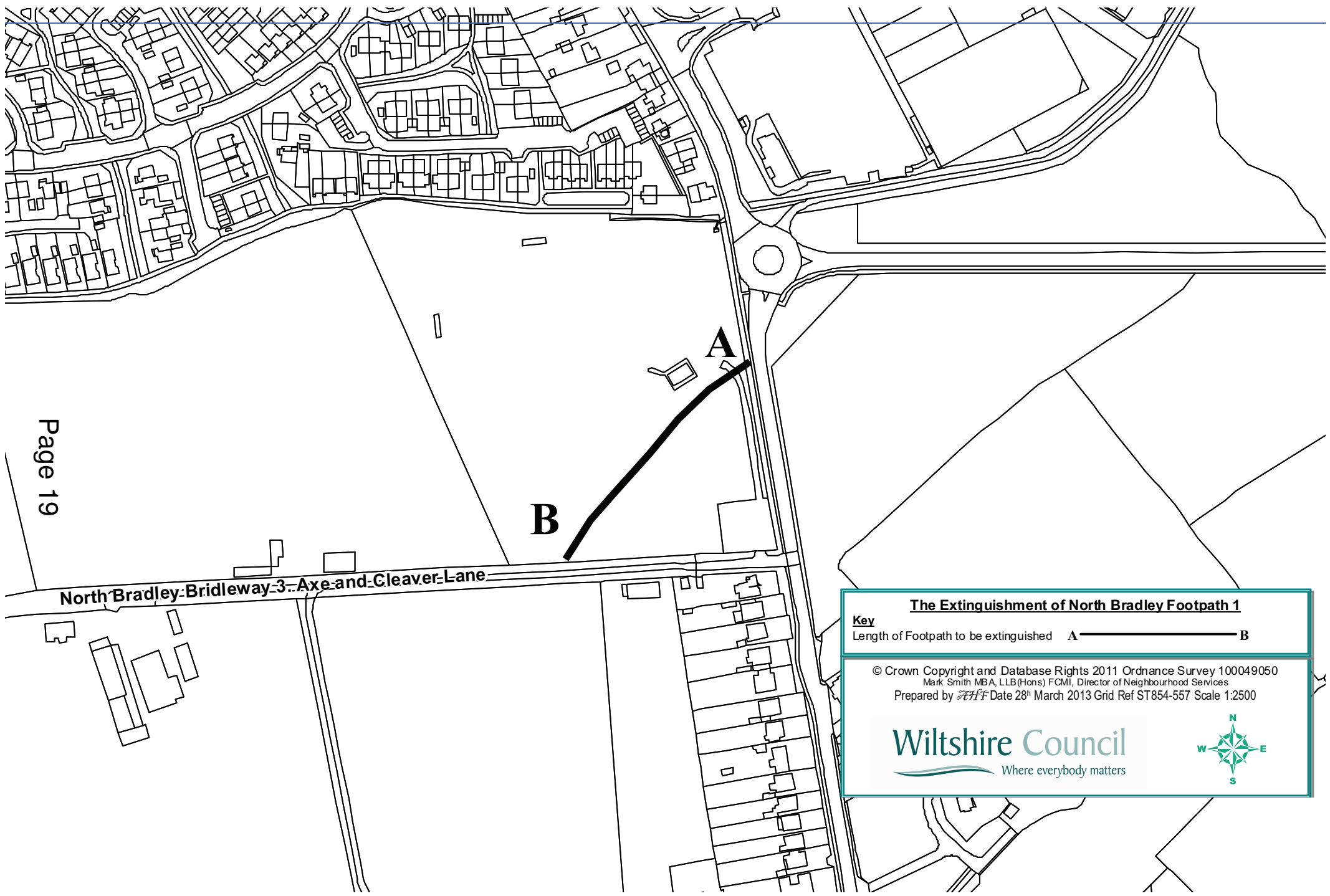
The following unpublished documents have been relied on in the preparation of this Report:

None

Appendices

Appendix 1 – Order Map

Appendix 2 – Copies of Objections



The Extinguishment of North Bradley Footpath 1

Key

Length of Footpath to be extinguished A ——— B

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Mark Smith MBA, LLB(Hons) FCMI, Director of Neighbourhood Services
Prepared by *ASH* Date 28th March 2013 Grid Ref ST854-557 Scale 1:2500

Wiltshire Council
Where everybody matters



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Ms Barbara Burke

Peter Oliver

Public Rights of Way

Wiltshire Council

County Way

Bythesea Road

Trowbridge BA14 8JN

21/05/2013

Dear Ms Burke

I once before raised an objection to the closure of the footpath going across the playing field
-,d as nothing has changed my objection still stands

I cannot see any reason for the closure or modification to the layout. It is an ancient
footpath that was there before Even I was born or any of the people using the playing field
and should remain untouched and unmodified for future generations to come

My Wife and I do use the foot path if only
occasionally just to keep it open

Yours Sincerely Peter Oliver



Subject: North Bradley Footpath 1- Proposed application under Section 116, Highways Act 1980 -Your ref: BB/LMW/WCS 15761

Date: Mon, 16 Apr 2012 14:22:55 +0000

Dear Mrs Burke,

As you know, I do not favour the use of the Magistrates' Court's power to stop up highways except where no alternative powers exist for Wiltshire Council itself to make an Order (for example, where there are public vehicular rights over the highway in question). In this particular case, as far as I am aware, the way is not recorded as having any public rights over it other than as a footpath, so these alternative powers are available under Sections 118 and 119 of the Highways Act 1980.

Having heard the views of North Bradley Parish Council, I do not have any other objection to the stopping up of this length of footpath, but I consider that it should be made strictly conditional on the formal dedication of and addition to the relevant Definitive Map and Statement as a footpath of at least 2 metres in width of the existing way directly linking Boundary Walk to Bradley Road, Trowbridge at a point approximately 80 metres north of point A across land in the same ownership as North Bradley Footpath 1.

It seems to me that this will provide the public with a more commodious route on foot from Boundary Walk to Bradley Road than the existing route via NBRA2, NBRA3 and NBRA1 and gives a proper statutory basis for linking the two proposals together (whether formally as a Diversion of NBRA or otherwise).

Yours sincerely,

Francis Morland
Wiltshire Councillor
Southwick Division

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Burke, Barbara

From: [REDACTED]
Sent: 03 June 2013 14:29
To: rightsofway; Burke, Barbara
Cc: Planning Office; CustomerCare; Customer Services West
Subject: The Wiltshire Council North Bradley 1 (Part) Public Path Extinguishment and Definitive Map and Statement Modification Order 2013

Dear Sirs,

I wish to object to the above Order made on 25 April 2013.

At a hearing on Tuesday, 22 January 2013, the Magistrates' Court at Chippenham determined that the footpath in question was not unnecessary for public use and therefore declined to make an Order to stop it up under Section 116 of the Highways Act 1980 (Your Ref: KG/WCS 17061).

There have been no material changes of circumstance in the three months following that decision to justify the Order now made by Wiltshire Council, which is a clear abuse of its ordermaking powers.

I remain deeply unhappy that Wiltshire Council has not carried out the measures I proposed in my e-mails sent 16 April 2012 and 08 August 2012, which I believe are essential before any further steps are taken to re-visit the Magistrates' decision on the basis of a subsequent change of circumstances.

I reserve the right to amend or add to the grounds of my objection to the Order.

Yours faithfully,

Francis Morland

[REDACTED]

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REPORT TO THE WESTERN AREA PLANNING COMMITTEE

Report No. 1

Date of Meeting	5 TH February 2014
Application Number	13/02820/FUL
Site Address	202 A Devizes Road Hilperton Trowbridge Wilts BA14 7QR
Proposal	Retrospective application for change of materials to driveway from gravel to brick pavers
Applicant	Mr K Wilkins
Town/Parish Council	HILPERTON
Grid Ref	387424 159040
Type of application	Full Planning
Case Officer	Philip Baker

Reason for the application being considered by Committee

Cllr Ernie Clark has requested that this application be reported to Committee should officers be minded to support it, to allow the Planning Committee to consider the following material planning considerations:

Environmental or highway impacts

1. Purpose of Report

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

Neighbourhood Responses – None received.

Parish Council Response – Objects and requested that an expert opinion be obtained from a drainage engineer to assess run-off.

2. Report Summary

The main planning issues to consider are:

Drainage Matters
Impact on neighbours and immediate surroundings

3. Site Description

The application site comprises about 0.12 hectares of an irregular shape and is occupied by a two-storey detached dwelling located within the defined village policy limits of Hilperton and its Conservation Area. The site is situated on the north side of Devizes Road, which is predominantly residential.

The site in question was formerly a builders yard and was in more recent times, occupied by Delta Kitchens, but following a period in which the site lay unoccupied, the site was redeveloped following the approval of application reference w/10/01920/FUL which allowed for the erection of the two-storey 4-

bed rendered dwellinghouse as well as the part refurbishment of an existing red brick structure to retain an office/studio space (an economic generator) on site.

The red brick projecting structure (which connects with the aforesaid dwelling) was previously used as a joinery workshop and projects along the eastern site boundary for some 13 metres or so before connecting with the public footpath at the site frontage.

In determining application w/10/01920/FUL, the case officer at the time duly recorded that there was hard standing and parking to the front of the site. The approved landscape plan associated to application w/10/01920/FUL proposed having rolled 'South Cerney' gravel (or similar) for the entire site frontage.

The site frontage has not however been completed in such material. Instead, the owner of the property has laid paviers using a mixed colour palette of buff and grey bricks.

4. Planning History

83/00443/FUL - Conversion of garage to office and storage to kitchen display area – Permission on 07.06.1983

W/10/00165/FUL - Demolition of existing buildings and erection of a single detached dwelling – Withdrawn

W/10/00628/CAC - Demolition of existing buildings and erection of a single detached dwelling – Withdrawn

W/10/01920/FUL - Partial demolition of existing building and the erection of a 4 bed dwelling house and part refurbishment of existing building for the retention of employment use as office/studio space – Permission 18.10.2010

W/11/03243/FUL – Material revisions to approved application w/10/01920/FUL in respect to erection of dwellinghouse (revised design) – Refused 03.02.2012

13/00530/FUL – Revised boundary wall treatment - Permission 20.06.2013

13/00742/FUL – Single storey rear extensions - Permission 20.06.2013

5. The Proposal

This application seeks retrospective permission to regularise the change of materials used to form the driveway serving the dwellinghouse at 202a Devizes Road from gravel to brick paviers covering an area of approximately 672m².

The area of hard standing is served by 4 designed soakaways measuring 1.5m diameter and 1.25m deep connected to an existing drain. The soakaways are designed to accord with BRE Digest 365 'Soakaway Design' with each of the four soakaways serving an area of 168m² each having the capacity to store 5.90m³ storm water – which exceeds the calculated requirements for the site (based on a 60-minute storm duration). The applicant's drainage analysis has considered inflow (4.17m³) and outflow levels (1.40m³) and concludes that the necessary storage volume required for the soakaways is 2.77m³.

In line with the BRE Digest, the applicant's analysis records that the storage capacity of the soakaways would half empty in just over 2 hours – which is fully compliant with the Digest (which seeks soakaways to "discharge from full to half volume within 24 hours in readiness for subsequent storm inflow").

6. Planning Policy

West Wiltshire District Plan 1st Alteration 2004

C19 – Alterations in Conservation Areas; C31a – Design; C38 – Nuisance

The Emerging Wiltshire Core Strategy

CP57 – Ensuring high quality design and place shaping and CP58 – Ensuring conservation of the historic environment

National Planning Policy Framework (April 2012)

Section 7 – Requiring good design and Section 12 – Conserving and enhancing the historic environment

7. Consultations

Hilperton Parish Council – Objects and asked that the planning authority obtains an expert opinion from a drainage engineer regarding the run-off.

Wiltshire Council's Drainage Engineer – No objection. The site area is very small in land drainage terms. The drainage analysis undertaken by the applicant is based on a comparison made between the existing drainage and the proposed drainage system by using the same drainage mechanism. The required storm water storage is less than the existing storage volume, so the existing storage volume is sufficient.

The emptying time is also within accepted parameters and the proposed system will be reset within 24 hours.

The upshot of the analysis is that the proposed drainage system provides an improvement over that which exists at present. The analysis accords with accepted reasoning because analysing small drainage areas is notoriously difficult and dependant on which method is chosen.

The change from gravel to paviers has the additional benefit of providing a hard surface which will not be dragged onto the adjacent highway by vehicular movements where gravel would tend to migrate and thus damage the existing macadam highway.

Following discussions with Councillor Clark the following comments were provided:

Having researched a ten year period, it is asserted that there is no flood history existing for this area of Hilperton. When I say 'flood history' I am of course not referring to anecdotal evidence but genuine measured flood events backed up by photographic evidence or insurance claims and reports from our highways department / Fire Brigade. To be certain, the drainage engineer reviewed records for Hilperton Drive, Ashton Road, Corbin Road, Marsh Road, the Rugby Club and Hilperton Brook.

The surface water and fluvial flood risk mapping produced by the Environment Agency for this area reveals no elevated flood risk for the Devizes Road site/area. The closest surface water flood risk area is west of the site located some 140 metres away.

The Drainage Engineer also checked with the British Geological Survey which revealed that there aren't many borehole records close by, but those that do exist (drilled to provide water failed to be viable indicating a poor water bearing strata). There may be local springs acting in the general area as the name "Springfield" crops up here and there, but it is suspected that historical drainage problems may have been caused by one-off events like pipe blockages or extremely severe storms outside normal design parameters.

As far as this application is concerned, the drainage mathematics and soakaway design reasoning are both sound, and therefore, there is no reason to refuse the application on drainage grounds.

Wiltshire Highways - The change of material from gravel to brick paviors is a welcome development.

Wiltshire Council Tree and Landscape Officer – No objection.

8. Publicity

The application was advertised by site notice/neighbour notification - Expiry date: 2 September 2013.

Third Party Representations – None.

9. Planning Considerations

9.1 Drainage Matters

The applicant has provided sound detailed drainage calculations which as reported above meet with the full satisfaction of the Council's land drainage officer. Officers duly submit that there is no substantive flood risk either on-site or in the immediate surroundings; and consequently, the application has planning officer support.

9.2 Impact on neighbours and immediate surroundings

The development would pose no detriment to immediate neighbours. As reported above, the material change (from rolled gravel to brick paviors) is positively welcomed by the highways team on the grounds that it removes the potential of displaced loose material being taken onto the public highway. The surface material also raises no heritage based objection (in terms of the impact it has upon the character and appearance of Hilperton Conservation Area).

10. Conclusion

On the basis of the above, officers recommend that this retrospective application is in accordance with policy and should be granted permission.

RECOMMENDATION – Approve subject to the following condition.

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

LOCATION AND BLOCK PLAN REV 1 – received 12.09.2013

SOAKAWAY POSITION DRAWING REV 1 - received 17.12.2013

APPROVED (W/10/01920/FUL) LANDSCAPE PLAN REV 1 - received 12.09.2013

PROPOSED REVISED LANDSCAPE PLAN REV 1 – received 12.09.2013

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

ITEM 1 – 13/02820/FUL

202a Devizes Road Hilperton



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REPORT TO THE WESTERN AREA PLANNING COMMITTEE

Report No. 2

Date of Meeting	5th February 2014
Application Number	13/06123/FUL
Site Address	Lansdowne Littleton Semington
Proposal	Retention of existing gypsy and traveller site and change of use of agricultural land to create 4 additional pitches with associated ancillary development
Applicant	Mr Felix Rooney
Town/Parish Council	SENINGTON
Grid Ref	390584 160131
Type of application	Full Planning
Case Officer	James Taylor

Reason for the application being considered by Committee

This application has been called in by Cllr Seed, the Division Member for the following reasons:

- Scale of development;
- Visual impact upon the surrounding area;
- Relationship to adjoining properties;
- Design – bulk, height, general appearance;
- Sustainability; and
- Overdevelopment of the site

1. Purpose of Report

To recommend that planning permission be granted subject to conditions.

2. Report Summary

Semington Parish Council objects to the proposal and 5 letters of objection have been received.

3. Site Description

The application site measures approximately 1 hectare and is located to the south east of the A350/A361 junction. It is partially an approved traveller site to the eastern end, with the remainder of the site being relatively flat agricultural land. There are established landscaped boundaries to the site which have recently been supplemented with unauthorised bunding. There have also been unauthorised encroachments of the residential accommodation into the agricultural land with associated ancillary hard landscaping works. There are provisional works to create a new access in the SW corner of the site over a highway verge.

The site is located outside of any village, with the nearest settlement being Semington to the west. There are a number of public rights of way in the vicinity; in particular 2 in close

proximity to the south. The access road is unclassified but leads onto the primary road network of the A361.

4. Planning History

02/01145/FUL - Two gypsy mobile homes and day room as a single family unit – Permission on 19.12.2002

07/01107/FUL - Change of materials to day room as part of single family unit – Permission on 12.07.2007

08/01952/FUL - Extension to gypsy accommodation – Permission on 12.09.2008

W/10/01736/FUL - Change section of agriculture area for domestic use to install a septic tank – Permission on 21.09.2010.

5. The Proposal

This application is a partly retrospective proposal for the creation of 4 new traveller ‘pitches’ on land immediately to the west of an existing lawful traveller site.

The existing ‘pitch’ has approval for occupation by a single traveller family, with 2 static caravans, 2 touring caravans and a dayroom. The site currently includes 3 mobile homes and the footings to a dayroom that includes a sitting room and a bedroom as per the planning approvals for the site. It is proposed to remove the existing caravans from the site retaining just the dayroom.

Of the 4 new pitches, the plans show that each would have a mobile home, a touring caravan and a dayroom; however only 2 of the potential 4 dayrooms are proposed at this time. The 2 proposed dayrooms would be single storey rendered structures with low profile concrete tile roofs. The footprint of the buildings would be 5 metres by 7 metres and contain a kitchen/seating area and a bathroom. Each site would have its own dedicated septic tank and hard standing for parking of at least 2 vehicles.

Access to the site would be via the established access to ‘Lansdowne’ which is onto a single width, unclassified, country lane that leads directly onto the A361 (some 120 metres away).

The proposals also detail the erection of a 4 metre thick, 1.5 metre high bund along the north and west boundaries that will be landscaped. Inside the bund a 1.8 metre high fence would be erected. The pitches would be divided by a 1.8 metre high fence. To the western end of the site, a communal children’s play area and communal visitor parking facility is proposed. A service road would run on an east/west axis along the southern side of the site adjacent to the existing hedgerow.

For the avoidance of any doubt, the application is partly retrospective as there has been the creation of a hard standing on the site including the service road base, the erection of fencing and the creation of bunding.

6. Planning Policy

West Wiltshire District Plan 1st Alteration (2004)

C1: Countryside Protection; C31a: Design; C38: Nuisance; CF12: Gypsy Caravan Sites; U1a: Foul Water Disposal; U2: Surface Water Disposal.

Emerging Wiltshire Core Strategy (eWCS)

CP1: Settlement Strategy; CP2: Delivery Strategy; CP3: Infrastructure Requirements; CP47: Meeting the needs of Gypsies and Travellers; CP51: Landscape; CP57: Ensuring high quality design and place-shaping; CP60: Sustainable Transport; CP61: Transport and development

National Planning Policy Framework (NPPF)

Planning Policy for Traveller Sites (PPTS)

7. Consultations

Semington Parish Council: Objects - which may be summarised as follows:

- Impact on Character and Appearance of the Countryside
- Impact on the Parish from the increasing concentration of traveller pitches around Semington. The increase in mobile homes on the Lansdowne site should not be considered in isolation but in the context of the steady increase in traveller presence in the small area around the A350/361 roundabout.
- This is agricultural land and hence the need to strictly limit such development still applies.
- Represents overdevelopment in the area around the A350/361 roundabout.
- The new owners have created a second and unauthorised access from a tight corner on a very narrow public road for which there is a history of known access difficulties
- Road Safety is an issue in that foot access to local amenities (including school, post office and bus stops) requires crossing two very busy roads, i.e. the A350 (up to 20,000 cars per day) and the A361. In addition, there are no footpaths to the bus stops which are 200 metres away. There are a number of children from this site who have been registered with the local primary school.
- Application is confusing and contradictory

Wiltshire Council's Drainage: No objection. There are "no land drainage issues that require comment".

Environment Agency: No objection.

Wiltshire Council's Environmental health: No objection.

Wiltshire Council's Highways: No objection.

Wessex Water: No objection. The site lies within a non-sewered area.

8. Publicity

The application was advertised by neighbour notification letters and a site notice (which was displayed near the A361 junction). 5 objections were received which may be summarised as follows:

- Further increase in the establishment of an extended traveller community.
- Pedestrians including school children do not have pavements and will need to cross the A361 and A350 to get to school.
- Appears to be an unstated policy on the part of Wiltshire Council to allow traveller development at the A361/A350 junction with no regard to existing residents.
- Increased traffic on country lane a hazard.
- Second new vehicular access created in south west corner of site onto dangerous bend.
- Limited passing opportunities on the lane.
- There have been accidents on the lane which is dangerous.
- Plans still do not reflect the applicant's agent's statement that the new entrance will be closed off.
- Inadequate screening and landscaping with no proposals on the southern and south western

boundaries.

- Storing and dumping of trade waste.
- Create access directly onto A361 instead akin to traveller site to the western side of the roundabout
- Concern that this is a commercial venture given a new sign erected renaming the site “Lansdowne Residential Park”.
- Why can travellers reside outside of settlement boundaries

9. Planning Considerations

9.1 Principle of development.

Proposals need to be assessed against the local plan and then any other material considerations. The relevant local plan is policy CF12 which is permissive of such applications subject to detailed criteria. Furthermore the NPPF and PPTS are both supportive documents to such development subject to detailed considerations. In addition the emerging WCS Policy CP47 is also permissive subject to detailed criteria and requirements.

Clarification of the proposals: As existing there is planning permission for 2 mobile units, 2 touring caravans and a dayroom for occupation by a single family unit on land at the east end of the site. It is proposed to remove the mobile homes from this part of the site, leaving just the dayroom (as yet not completed beyond foundations) on the existing approved site. The partly retrospective proposals detail that 4 pitches would be created to the west all with a mobile unit and a touring unit: with 2 of the pitches having dayrooms. This would mean that the site would have five pitches in total, including a day room on the existing approved site.

9.2 Status of applicant.

The applicant and their family who are resident on the site meet the definition of a traveller as set out in national policy.

9.3 Existing level of provision and need for sites.

The site is within the North and West Wiltshire Housing Market Area (HMA) and the evidence that informed CP47 resulted in a requirement for a number of new traveller sites between 2011-2016. This requirement has been met and exceeded with planning permissions already granted since 2011. However the Wiltshire Core Strategy Inspector has raised significant concerns about the robustness of the evidence base used by the Council in assessing the need, stating that the approach is undermined ‘by the lack of clear and substantive evidence’. He is also critical of the failure of the CS to identify a supply of specific deliverable sites, noting that this does not achieve consistency with national policy.

In response, the Council has agreed to carry out a GTAA to inform a robust assessment of need. The Inspector has welcomed this and in his letter dated 23 December 2013 stated that the Council should ‘also identify how, until the GTAA is complete, the Council will adopt a positive approach towards the gypsy and travelling community. In the interests of clarity, it may be necessary for the Council to acknowledge within the CS any absence of a requisite land supply until such time as the GTAA and the proposed DPD are completed’.

The Core Strategy Inspector’s concerns about a lack of adequate supply has also been reflected in the two most recent appeal decisions in West Wiltshire concerning gypsy and

traveller sites. In the appeal against the Littleton stables site opposite, determined in January, the Inspector confirmed 'that there must be considerable reservations as to the robustness of the current assessment. Significant weight should be given to these reservations'. In another appeal at Dilton Marsh, also determined in January, the Inspector stated 'It seems apparent that, despite the Council's suggestion that the defined need for the area has been met by recent permanent planning permissions, there remains an unquantified need for further sites in the area at present'

The PPTS details at paragraph 25 that where an up to date 5 year supply cannot be demonstrated, it constitutes a significant material consideration when considering the grant of temporary permissions. This is an application for permanent development and the lack of land supply and resultant need is a relevant material consideration that weighs in favour of allowing the application.

9.4 Availability of alternative accommodation for the applicants.

Whilst the Council does have its own sites, the Inspector noted at the Dilton Marsh appeal that there is a waiting list for the existing sites in the Council's area, and therefore there is no option to use these in place of the application site.

9.5 Other personal circumstances of the applicant.

The application is submitted by Mr F and Mr J Rooney. It is understood that the pitches would all be occupied by the wider family of the applicants. Within the family group there are known educational needs with 9 children identified as being of school age. A settled base will help these children receive education and it is understood that they are being registered at the local school. Furthermore the benefits of having a settled base are well established, also including access to medical facilities.

9.6 Impact on the local community.

This proposal does represent an increase in the level of traveller provision in the vicinity of this junction of the A361 and A350. There has been objection on the basis that this would be an overdevelopment in this part of the parish of Semington. However, whilst the proposal would increase the number of pitches in this immediate vicinity to 9, across Wiltshire there are a number of locations where a greater number of traveller pitches are located on one site and do not dominate the local community. However each case needs to be assessed on its own merits. The three sites at Semington are located outside of the village, are all self-contained, have a limited impact on the appearance of the area and would not of themselves or cumulatively dominate or cause any demonstrable harm to the settled community.

9.7 Criteria in Development Plan for Gypsy/Traveller Sites

Policy CF12 of the Local Plan sets out the criteria against which proposals for gypsy/traveller sites will be considered. Looking at these in turn:

Potential nuisance to adjoining land uses, particularly residential areas:

The proposals would not impact on the reasonable amenities of any existing residential units. There are no adjoining dwellings. Other traveller pitches and houses are more than 80 metres away and would not be affected.

Encroachment into open countryside/Impact on character and appearance of area:

The field is well contained, with hedgerows and now a bund on the A361 side. However the landscape is such that the site is not widely visible from distance views, and any limited impact would be solely to the immediate area. In addition the proposal includes works for the creation of a landscaped bund on the north and west boundaries to supplement the existing planting and screen views from the main roads.

The existing hedge on the southern boundary successfully screens the development site from public rights of way and the lane. A small section in the south west corner of the site has been opened up completely. From Google 'street view' it has been possible to establish that this corner was relatively open already but a post and wire fence and temporary fencing was blocking this area up. Additional planting at this point to mitigate any views from the lane and public rights of way into the site is necessary. This would be in the interests of preserving the rural amenity and landscape views. The applicant has provided a revised plan with a fence across this area. Final details can be secured by condition.

The operational development proposed on the site is low profile and no higher than 3 metres to ridge. It is therefore likely that the roofs of the day rooms and the caravans will not be widely visible and would not be significantly harmful to the landscape or rural scene at this point.

It is also noted that the site is bounded to the north and west by major A-roads and to the east by an established traveller site. On the southern boundary is a country lane. It is therefore considered to be an isolated agricultural field.

In summary, the impact on the rural scene and landscape would be negligible. It is worth noting that the Council has tried advancing arguments on landscape impact on both of the other existing traveller sites close to the A350/A361 junction. In each case, the Inspectors have dismissed these concerns, finding the sites not to be prominent, nor intruding significantly into the wider landscape.

Needs and safety of future occupants and their children

Whilst this is a material consideration, it is considered likely that children of primary school age would be unlikely (in many cases) to walk to school from this site. As an Inspector concluded recently on the Littleton Stables site opposite there is likely to be a reliance on the private car and this would address safety concerns. It is also a risk to be assessed by the applicants themselves as adults and responsible parents. In planning terms the site is considered to be safe subject to reasonable behaviour. The educational needs have been touched on earlier in this report.

Highway safety

Access to the site would be obtained via an established access which has reasonable visibility onto a single width, unclassified, country lane. Although passing spaces along this lane are limited it is circa 120 metres to the main road and before the junction onto the A361 there is an opportunity for cars to pass. The visibility onto the A361 is acceptable.

The proposals will increase traffic at this point however this will not be significant and any harm is substantially less than "severe". The NPPF details that only severe highway impacts should merit refusal on highway grounds.

Availability of Infrastructure

Infrastructure: There is water and electricity at the site and it is proposed to use non-mains for the foul disposal. This is all acceptable and neither Wessex Water nor the Environment Agency raise any issue.

Proximity of local services/sustainability

The site is located outside of any defined town or village policy limits. Local and national policy makes provision however for traveller development to be located in the countryside. It has to be acknowledged that the site has been deemed acceptable in sustainability terms within the original 2002 permission. Very recently a Planning Inspector approved a proposal to make the 'Littleton Stables' traveller site permanent. This is located directly opposite the site and has virtually identical sustainability and accessibility circumstances. The Inspector stated in that recent case that dependence on a car is not unusual in rural areas and that the sustainability criteria in paragraph 11 of the PPTS have been satisfied. Whilst each case is assessed on its own merits in light of this decision and the striking similarities on this issue then the site must be considered to be sustainable within the PPTS meaning. The Inspector at the site adjacent to Semington crematorium also reached similar conclusions.

Need to protect the best and most versatile agricultural land

The site is an isolated parcel of Grade 3 agricultural land and its use for the purpose proposed could not be defended on these grounds.

Potential flood risk

The application site lies within flood zone 1, the lowest probability of fluvial flood risk. No flood risk is posed to or from this proposal. Wiltshire Council's Drainage officers and the Environment Agency have raised no objection.

10. Conclusion

The Council cannot demonstrate a requisite land supply for traveller sites and has been urged by the Core Strategy inspector to acknowledge any current absence of such a requisite land supply. Even were this not the case, the Council is still obliged to consider applications against the criteria of its own development plan. In this case, the application satisfies the relevant criteria. As with the other two nearby sites granted on appeal, the proposed development is in a sustainable location, would cause little harm to the character and appearance of the countryside and would make a positive contribution to the supply of gypsy/traveller sites in this part of Wiltshire. Whilst the local objections have been noted and given very careful consideration, they cannot be sustained as reasons for refusal.

RECOMMENDATION

Grant planning permission subject to conditions.

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans:
 - TP-01 - Site location plan - received on 29 November 2013
 - TP-02 - Existing block plan - received on 29 November 2013
 - TP-03 Rev A - Proposed block plan - received on 2 January 2014

TP-04 - Day Room Drawings - received on 29 November 2013

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

- 2 The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of Planning Policy for Travellers Sites.

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

- 3 There shall be no more than 5 pitches on the site (including the existing site as defined by planning permission W/10/01736/FUL) and on each of the pitches no more than 2 caravans shall be stationed at any time and of these, only 1 caravan on each pitch shall be a static caravan, all as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968.

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

- 4 The day room approved under planning permission 08/01952/FUL shall be completed in accordance with the approved details and occupied as part of one of the five pitches hereby approved and in accordance with the terms of conditions 2 and 3.

REASON: For the avoidance of doubt and to define the terms of this permission.

- 5 No commercial activities shall take place on the land, including the storage of materials.

REASON: In order to define the terms of this permission and protect the rural scene and character of the countryside.

- 6 No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.

REASON: In order to define the terms of this permission and protect the rural scene and character of the countryside.

- 7 The development hereby permitted shall cease to be occupied, all caravans, areas of hard standing and fences shall be removed and all equipment and materials brought onto the land for the purposes of such use and materials resulting from any demolition shall be removed within 3 months of the date of failure to meet any one of the requirements set out in below:

(i) Within 2 months of the date of this decision schemes for hard and soft landscaping and foul and surface water drainage shall be submitted to the Local Planning Authority. The schemes are to include a timetable for their implementation;

(ii) The approved scheme has been carried out and completed in accordance with the approved timetable.

REASON: To ensure a satisfactory standard of development in the interests of the amenities of the area.

- 8 Pursuant to condition 7 and the landscaping scheme all shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local

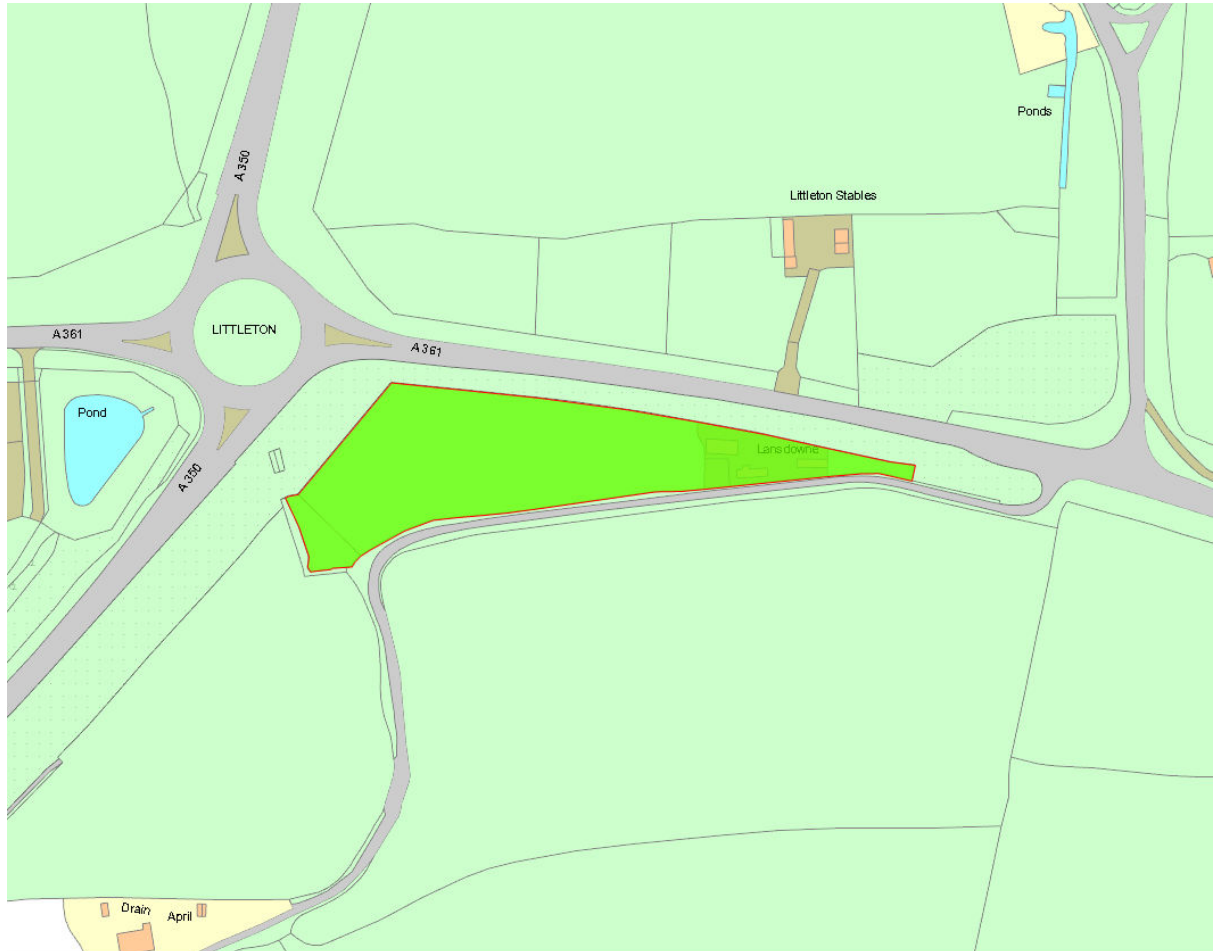
planning authority.

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

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ITEM 2 – 13/06123/FUL

Lansdowne Littleton Semington



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REPORT TO THE WESTERN AREA PLANNING COMMITTEE

Date of Meeting	5 th February 2014
Application Number	13/05142/FUL
Site Address	Land Rear Of 63 Shaw Hill Shaw Wiltshire
Proposal	Refurbishment and alteration of existing dwelling plus the erection of a new dwelling and associated works and alterations to existing access/private lane (resubmission of W/13/0999/FUL)
Applicant	Mr & Mrs M Hallett
Town/Parish Council	MELKSHAM WITHOUT
Grid Ref	388357 165603
Type of application	Full Planning
Case Officer	Kate Sullivan

Reason for the application being considered by Committee

The application is brought to committee at the request of the Division Member, Cllr Terry Chivers, on the grounds of the scale of the development; visual impact; relationship to adjacent property; design and the environmental/highway impact.

1. Purpose of Report

To consider the recommendation that the application for planning permission be approved.

2. Report Summary

The key issues for consideration are:

- Landscape and visual Impact
- Design
- Impact on the highway
- Impact on the neighbouring amenity
- Encroachment into open countryside

3. Site Description

The application site, as outlined in red straddles the village policy limits for Shaw. The area which proposes the new dwelling and the alterations to the existing dwelling is located within the village policy limits of Shaw. The access road and the alterations to the access with 61a, along with the encroachment into the field are located outside of the village policy limits.

The site is accessed via the A350 and is bordered by a recent development known as Beltane Place to the east, along with the existing dwellings which all gain access via the private lane. To the north and west of the application site is open countryside.

A public right of way shares the access along the private road and over a field gate/ style and follows along the side boundary of the existing dwelling, number 63 Shaw Hill.

The private road currently serves approximately 14 dwellings.

It is noted that the land which follows the line of the public footpath was subject to a dismissed planning appeal regarding the change of use of the land from agricultural field to domestic driveway to serve the recently constructed dwelling known as Beltane House which is located to the north of the application site.

4. Planning History

W/13/00999/FUL	Refurbishment and alteration of existing dwelling, plus the erection of a new dwelling and associated works. Withdrawn
90/01228/FUL	Extension to provide ground floor kitchen, day room, double garage and first floor bed/bath/study/corridor. Permission, 23.10.1990
89/01026/FUL	2 storey extension. Permission, 25.07.1989
85/00375/FUL	Erection of a pre-fabricated dwelling to be occupied by parents-in-law. Permission, 15.05.1985

Appeal history

APP/F3925/C/07/2034818 land adjacent to Sheeshnag, Shaw Hill
Enforcement appeal for the construction of a 100m long access track, dismissed and enforcement upheld.

APP/F3925/C/07/2036409
Enforcement appeal for the construction of a 100m long access track, dismissed and enforcement upheld.

5. The Proposal

The application seeks to:

- Refurbish and alter the existing dwelling including raising the ridge height of the roof by 1m.
- Erect a new dwelling within the garden of the existing dwelling
- Enlarge the private lane from the access with the A350 up to and including the right hand bend
- To facilitate the enlargement of the right hand bend through the change the use of a small portion of the adjacent field
- Alterations to the public right of way
- Change the access for number 61a Shaw Hill

6. Planning Policy

National Planning Policy Framework (2012)

West Wiltshire District Plan 1st Alteration 2004 – relevant policies are: C1 Open Countryside; H17 Development within Village Policy Limits; T12 Footpaths and bridleways; C31a Design; and C38 Nuisance.

7. Consultations

Melksham Without Parish Council

Melksham Without Parish Council object to the proposals on the following grounds:

- Widening of the lane which would then narrow would increase the potential to cause an accident
- Effect of widening the lane on the public right of way
- No street lighting
- The proposals do not address the dangerous access with the A350
- Design and proposed materials do not respect the local area
- Widening of the road into the field would harm the public right of way and extends beyond village policy limits
- Set a precedent for further development in adjacent gardens

Should permission be granted a condition should ensure that the lane is widened prior to the development of the dwellings.

Wessex Water

No objection – informative to be attached.

Wiltshire Council – Highways

No objection subject to conditions.

Wiltshire Council – Rights of Way

No objections.

8. Publicity

The application has been publicised by way of a site notice which was displayed on the 8 November 2013 on the field gate and neighbour notification letters were sent directly. 8 letters of representation have been received objecting to the proposal on the following grounds:

- Highway safety
 - The new entrance to 61a would create a new dangerous entrance onto the lane.
 - The repositioning of the entrance will not reduce the number of vehicles at the junction with the A365
 - Plans show two different visibility splays with the new entrance to 61a
 - Widened road would encourage faster driving from the main road
 - A bottleneck would be created at the point that the road width is reduced again
 - Wider road would encourage use of lane for parking
 - Private road already has a number of hidden driveways
 - Already several accidents along the lane
 - The private lane is not controlled by Highways; who has authority? Whose responsibility to upkeep? Council has a duty of care to all rate payers
 - No increase in visibility proposed for the new dwelling's access
 - No lighting or footpath for pedestrians
 - Increase in vehicles using the lane would have a negative impact on the existing residents
 - Impact on bin collection.
- Design
 - Design is not in keeping with other properties in the vicinity
 - Materials more in keeping with an industrial zone than the bath stone properties locally.
 - The proposed development does not respect the spatial character of the area and represents an over development of the land.
- Encroachment outside of village policy limits

- Would set precedent to further development
- Provision has not been made for the storing of wheelie bins that are left at the right hand bend for collection

9. Planning Considerations

9.1 Impact on the highway

This site and sites within the vicinity have been subject to similar planning applications that have been refused on the grounds of highway safety.

Planning application 11/02511/FUL, Proposed dwelling on land at Belthane House, is to the north-east of 63 Shaw Hill, utilising the same access road. This application was recommended to be refused for the following reason:-

'The access road by reason of its restricted width, poor alignment and sub-standard junction with the A365 is considered unsuitable to serve as a means of access to the proposed development.'

The application was dismissed at Appeal.

This application incorporates the widening of the access road to 5.8m (allowing two vehicles to pass) from the junction of the access road with the A365 to the access serving 63 Shaw Hill. Therefore, this alteration omits the original highway concern of the access road being of restricted width.

Below is Para: 7 from the Inspectors decision, which highlights vehicular conflict from the 3 accesses at the junction with the A365 (one to a property to the west (No 61A), a second serving the access road to the appeal site as well as a number of other properties, and a third serving the cul-de-sac known as Belthane Place).

'With regards to the visibility at the junction of the access road with the A365, I observed that to the northwest, there is a hedgerow that is in private ownership, but it did not appear to obstruct visibility to any great extent. To the south east, the dwellings fronting Shaw Hill are set back from the road enabling reasonable visibility. That said, the junction with the A365 serves three separate accesses: one to a property to the west (No 61A), a second serving the access road to the appeal site as well as a number of other properties, and a third serving the cul-de-sac known as Belthane Place. I have no doubt that the confluence of these accesses can already give rise to vehicular conflict, especially during the peak morning and evening periods when residents would be making their way to and from their dwellings, and traffic flows along the A365 are likely to be at their greatest. Consequently, I agree with the Council that any increase in the use of the junction resulting from a new dwelling should be discouraged.'

This application results in the number of accesses at the junction being reduced from 3 to 2; the access serving No.61A Shaw Hill would be permanently relocated to be served from private access road. Therefore, this reduction in accesses reduces the conflicts and therefore overcomes the view raised by the Inspector that the confluence of three accesses gives rise to vehicular conflict.

On the basis of the above, the alterations proposed overcome the highway concerns previously raised, therefore, no highway objection has been raised by the Highways Officer subject to the conditions being attached to any planning permission granted.

It is noted that neighbouring residents have raised concerns regarding the potential for drivers to increase their speed on the wider section, however as it leads to a corner it is acknowledge that drivers would already be reducing their speed to negotiate the corner and as such would not

increase the risk of accidents on the corner of the lane.

With regards to the maintenance of the widened part of the road this would be out with the responsibility of Wiltshire Council and would form part of the private lane as such this would become a private legal matter between residents served by the lane.

In relation to potential for people to park within the proposed widened area of the private lane it is considered that the area would be viewed as part of the lane and as such would not be viewed as a parking area.

At present residents of Shaw Hill lane have their bins collected from an area of land now within the applicant's ownership. Letters of objection raised concerns as to where the bins would be collected from in the future. The Waste and Recycling Team have been consulted and comment that their policies state that they are only required to collect waste from the nearest adopted highway. However if a private lane or road is built to an acceptable standard to accommodate a 26t refuse vehicle and we have a signed indemnity from the land owner, we would consider collecting waste from the curtilage of the properties. In relation to Shaw Hill lane if a refuse truck were to drive into the lane, there is nowhere for it to be able to turn around and the lane is too long and narrow to reverse all the way up to the houses. This is why the communal collection point was designated on the corner.

They note that there is not a lot of change planned, just to widen the first part of the lane to 5.8m up to the entrance to No.63 (and to change the entrance into No.61a). At present the refuse truck already reverse into here and therefore it would not change much regarding waste collections. The communal collection point on the corner where the field gate and stile is would have to remain and it is noted from the proposed plans that the field gate and fencing would be relocated and a collection point area would still remain.

Therefore it is considered that subject to the conditions recommended by the Highways Officer the proposed development would not result in an unacceptable impact on the highway or highway safety.

9.2 Impact on the Open Countryside

As stated in the site description the proposed dwelling and garage is located within the village policy limits of Shaw however the area of road to be widened would be located within the open countryside.

Saved Policy C1 of the West Wiltshire Local Plan seeks to maintain the quality and variety of the countryside, the water environment, the rural landscape and wildlife through the control of development and positive planning measures. The guiding principle in the countryside is that development should both benefit economic activity and maintain and enhance the environment. Saved Policy C1 goes on to state Development proposals in the open countryside will not be permitted, other than those which encourage diversification of the rural economy and rural recreation, unless there is an agricultural, forestry or other overriding justification such as essential transport improvements.

The proposed road widening would be located outside of the village policy limits and is not for an agricultural or forestry proposal. It can be argued that the proposal would provide an overriding justification in relation to highway safety improvements for the residents of Shaw Hill Lane, which is currently served by a narrow private lane, which has previously been highlighted in previous appeal decisions as being too narrow. The area to be widened would equate to approximately 12m² in area of land being tarmac and the field gate and fence reposition to facilitate the widening of the road to 5.8m in width overall. It is considered that this limited encroachment would not result in an unacceptable impact on the open countryside and would be in accordance with Saved Policy C1 in providing an

overriding justification in highway safety improvements to Shaw Lane.

The existing property and proposed property are located within the Village Policy Limits as defined by Saved Policy H17 of the West Wiltshire Local Plan. As such the principle of development is considered acceptable subject to accordance with other policies within the plan and criteria of the policies.

9.3 Impact on the public right of way

As a result of the proposed widening of the road the existing public right of way would require a slight diversion. The existing public right of way is taken via the access road and into the field through the kissing gate. The proposals would require the relocation of the gate further into the field. The amendment of the public right of way is undertaken through a separate application process directly with the Public Rights of Way Team. In relation to this application it is considered that the proposed development would not result in an adverse impact on the Public Right of Way due to the scale and nature of the development.

9.4 Design considerations

The existing property No.63 is a dormer bungalow constructed in reconstituted stone with a concrete tile roof. The proposed refurbishment of the bungalow would raise the ridge height of the property to 7.5m and an eave height of 4.5m with a grey slate roof. The refurbished dwelling would be rendered to 2.7m in height and cedar cladding to the remaining of the property up to ridge height. The existing dwelling is 6.5m to ridge. A total of 5 parking spaces would be provided within the site, 2 contained within a garage.

The proposed new dwelling would be 7.1m to the ridge and 5.2m to the eaves with a grey slate roof. The dwelling would be finished in cedar cladding with render detailing to the northern, southern and eastern elevations. On the western elevation grey brickwork detailing would be installed above the entrance and on the chimney. The proposed detached garage would be finished in cedar cladding.

The proposed new property would provide 5 bedrooms. The property would provide an internal floor area of 341sqm and cover a site area of approximately 189sqm. The plot would be approximately 1305sqm plus the drive. A total of 5 parking spaces would be provided within the site, 2 contained within a garage.

A rowan tree would be removed (T2) from the south eastern corner of No.63 plot, in addition weeping tree (T9) to the north west of the original property would be removed, Two of the Lawson Cypress (T4) would be removed from the south western boundary of No.63 due to the condition of the trees being poor.

Within the proposed new dwelling plot an apple tree (T10) would be removed from the north western corner of the plot and one Hawthorn Tree (T17) would be removed from the south eastern corner of the plot. All remaining trees and hedging would be retained. In addition Hazel hedging would be installed to the boundary of No.63 adjacent to the access road to the proposed dwelling and the north eastern corner of the new dwelling plot.

The neighbouring properties are constructed in a variety of materials including ashlar stone, re-constituted stone and render. Belthane Place to the south is a recently constructed development that is finished in re-constituted stone and render with red clay pantile roofs. Whilst it is acknowledge that the proposed cedar cladding and grey brickwork are not wholly in keeping with the neighbouring properties it is considered that the cedar cladding would provide a transition material from the open countryside to the north and west to the built development of Shaw. The grey brickwork would be contained to the northern elevation and as such would not be visible from the public highway and very limited views from the public footpath. The render reflects the render used in neighbouring properties and while the proposals are modern in design the scale and

materials proposed are in keeping with the local area in relation to the agricultural open countryside to the north and west and built residential developments to the south and east.

As such it is considered that the proposals would accord with the principles of Saved Policy C31a in relation to respecting or enhancing the local landscape and would not result in an unacceptable impact on the character of the local area. The properties would be located within large plots which is in keeping with neighbouring development. The scale of the properties is reflective of neighbouring two storey properties and would be proportionate to such properties.

9.5 Impact on the neighbouring amenity

No.63 faces onto the gable of the new dwellings at Belthane Place. The proposals would increase the ridge height of the property by 1m to 7.6m. The ridge height of neighbouring development at Belthane Place is 8.77m and 61a Shaws Lane 7.7m. It is considered that due to the scale of the proposed refurbishment of No.63, the location of the glazing and the separation distance from the gable of Belthane Place (approximately 18m) that the proposed refurbishment of No.63 would not result in an impact on the amenity of Belthane Place. Similarly the separation distance and intervening boundary treatments at No.61a to the south west and Walnut Cottage to the west the refurbishment of No.63 and increase in roof height would not result in an impact on the amenity of those properties.

The proposed new dwelling would be located to the north of No.63 and would be situated between No.63 and Belthane House located further to the north. It is considered that due to the scale of the proposed dwelling, the location of the glazing and the separation distance from the neighbouring properties the proposal would not result in an impact on neighbouring amenity.

10. Conclusion

It is considered that the re-submitted scheme overcomes the highway concerns originally raised at the application stage and at previous appeals. The small encroachment into the open countryside is considered to be very limited and would be considered to provide an overriding justification in relation to highway safety improvements for the residents of Shaw Hill lane, which is currently served by a narrow private lane.

The proposals would not result in an adverse impact on neighbouring residential amenity due to the design, scale and orientation of the proposed development.

Whilst the materials proposed are not wholly in keeping with the local vernacular it is considered that the use of cedar cladding would provide a transition from the open countryside and agricultural buildings to the residential development of Shaw. The grey brick work would be limited to the northern elevation and as such would not be a prominent feature in the public view. The render would reflect the render used on neighbouring developments. It is considered that the proposals are in accordance with Saved Policy C31a of the West Wiltshire Local Plan.

It is considered that the proposals while requiring a separate application to be made directly to the Public Rights of Way team for the alteration of the right of way the proposals would not result in an adverse impact on the public right of way sufficient to refuse the application.

RECOMMENDATION

Approve the application subject to conditions.

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

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

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

Block Plan and Street Scene A21 dated 7/10/2013, Block Plan and Street Scene A01 dated 7/10/2013, Elevations proposed dwelling A24 dated 7/10/2013, Elevations refurbished No.63 A23, Dated 7/10/2013, Garage floor plans, Planting Scheme proposed A26 dated 7/10/2013, Proposed Floor Plans A22 dated 7/10/2013, Proposed Materials A27 7/10/2013, Road Layout Plan Detail A dated 7/10/2013, Road Layout Plan Proposed dated 23/10/2013, Road Layout Plan Detail dated 7/10/2013.

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

- 3 No development shall commence on site until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority.

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

- 4 All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

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

- 5 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 those Orders with or without modification), no development within Part 1, Classes A-H shall take place on the dwellinghouse hereby permitted or within their curtilage.

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

- 6 Prior to the commencement of development details shall be submitted to and approved by the Local Planning Authority for the provision within the curtilage of No.63 Shaw Hill for the parking and turning of three vehicles; (please note a garage is not considered to be a car parking space). The parking and turning shall thereafter be carried out in accordance with the approved details.

REASON: To ensure sufficient off road parking is provided.

- 7 No development shall commence on site until details of the stopping up of all existing accesses for No.61A Shaw Hill, both pedestrian and vehicular, have been submitted to and approved in writing by the Local Planning Authority. That stopping up shall take place in accordance with the approved details within one month of the first occupation of the development. No later than one month after the first occupation of the development, the

sole means of vehicular and pedestrian access to the development shall be as shown on the plans hereby approved.

REASON: In the interest of highways safety.

- 8 No part of the development hereby permitted shall be first occupied until the access, turning area and parking spaces for No.61A Shaw Hill and the proposed dwelling have been completed in accordance with the details shown on the approved plan reference Road Layout Plan Detail dated 7/10/2013 and Block Plan and Street Scene A21 dated 7/10/2013. The areas shall be maintained for those purposes at all times thereafter.

REASON: In the interest of highways safety.

- 9 The alterations proposed for No.63 Shaw Hill shall not commence until the area between the nearside carriageway edge and a line drawn 2.0 metres parallel thereto over the entire site frontage has been cleared of any obstruction to visibility at and above a height of 600mm above the nearside carriageway level. That area shall be maintained free of obstruction at all times thereafter.

REASON: In the interest of highways safety.

- 10 No development shall commence on site until a scheme for the discharge of surface water from the site (including surface water from the access/driveway), incorporating sustainable drainage details, has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first brought into use until surface water drainage has been constructed in accordance with the approved scheme.

REASON: To ensure that sufficient surface water drainage is provided on site.

- 11 No development shall commence on site until the widening of the access road to 5.8m has been constructed in accordance with the Road Layout Plan dated 7/10/2013.

REASON: In the interests of highway safety.

Informatives

- 1 If at any time during the works to trees there is any evidence of bats found (the active bat season being from May to September inclusive), the tree surgeon should stop work immediately and contact the National Bat Helpline on 0845 1300 228 for further information. Bats are protected species as set out in the Conservation of Habitats and Species Regulations 2010 which came into effect on 1st April 2010. It is an offence to kill bats, disturb them or their roosts.

2 Water Supply and Waste Connections

New water supply and waste water connections will be required from Wessex water to serve this proposed development. Application forms and guidance information is available from the Developer Services web-pages at our website www.wessexwater.co.uk.

Please note that DEFRA intend to implement new regulations that will require the adoption of all new private sewers. All connections subject to these new regulations will require a signed adoption agreement with Wessex Water before any drainage works commence.

Further information can be obtained from the New Connections Team by telephoning 01225 526222 for Water Supply and 01225 526333 for Waste Water.

Building Near to a Public Sewer

No building will be permitted within the statutory easement width of 3 metres from the pipeline agreement from Wessex Water. Please telephone the Sewer Protection Team 01225 526333.

Separate Sewer Systems

Separate systems of drainage will be required to serve the proposed development.
No surface water connections will be permitted to the foul sewer system.

ITEM 3 – 13/05142/FUL
Land rear of 63 Shaw Hill Shaw



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REPORT TO THE WESTERN AREA PLANNING COMMITTEE

Date of Meeting	5th February 2014
Application Number	13/04201/FUL
Site Address	Ellbridge Farm Lower South Wraxall Bradford On Avon Wiltshire BA15 2RR
Proposal	Temporary retention of agricultural workers timber chalet accommodation
Applicant	Mr Adam Tucker
Town/Parish Council	SOUTH WRAXALL
Grid Ref	383832 163726
Type of application	Full Planning
Case Officer	Victoria Hodgson

Reason for the application being considered by Committee

Councillor Carbin has requested that this item be determined by Committee should the application be recommended for refusal due to the local agricultural economy and also should the application be recommended for approval due to the Parish Council's comments.

1. Purpose of Report

To consider the recommendation that the proposed temporary retention of the agricultural workers dwelling be refused planning permission.

2. Report Summary

The main issues to consider are:

- Justification for an agricultural workers dwelling
- Impact on the countryside
- Servicing and road safety interests

3. Site Description

The application site is located in a field served by country lanes. It has two accesses onto the lane to the north. One is positioned centrally the other in the north-west corner and which has limited visibility.

The site includes a modern agricultural building granted planning permission in 2012, W/12/00393/FUL which replaced a redundant agricultural building previously on the site. There are a range of concrete block and timber buildings as well as a number of former railway carriages. Immediately to the east of the buildings is a temporary agricultural workers dwelling and is the subject of this application.

The proposed dwelling is a one bedroom chalet forming a T shape located in the North East corner

of the site. The building is constructed from timber. From an internal inspection, the dwelling includes a living room, kitchen, bathroom and one bedroom. Two of the sheds/former railway carriages are used for ancillary domestic storage the dwelling.

Farming Practice

The land is used by the applicant for their pork and lamb enterprise which according to paragraph 5.3 of the Design and Access Statement was started by the applicant in March 2010. The pigs are the main part of the business and are reared and kept on a low intensity outdoor system on the site whilst the lambs are transferred in as orphans and bottle reared until they are taken for sale. According to the submitted Agricultural Appraisal Report the applicant proposes an intensification of the existing pork enterprise.

4. Planning History

According to the information submitted the applicant started breeding and rearing pigs on the site in March 2010 and the following autumn constructed an unauthorised agricultural workers dwelling. In August 2011 Planning Enforcement Officers investigated the unauthorised use of the land (W/11/00138/ENF_L). It is important to note that at the time of this investigation the dwelling was present on the site and small number of pigs on the land. At this time it was not evident that the applicant was involved in an independent agricultural enterprise other than that of the applicant's parent's long established agricultural business at a nearby farm. Although the applicant was keeping a small number of pigs on the land they were not involved with any agricultural operation as the animals were being kept as pets. The applicant submitted a retrospective planning application for 'Temporary retention of agricultural worker's timber chalet accommodation' on 5th March 2012, W/12/00396/FUL following the enforcement investigation. This application was delayed for eleven months during which time there were discussions over the agricultural justification for the residential accommodation as well as road safety issues. Whilst the road safety issues were largely resolved the agricultural justification was not and therefore the applicant withdrew the application on 28th February 2013.

A further planning application was submitted on 5th July 2013 (13/01781/FUL) for 'Temporary retention of agricultural workers timber chalet accommodation (resubmission of planning application reference W/12/00396/FUL)'. This application was later withdrawn on 28th August 2013 because neither the applicant nor agent were available to represent the case at the Planning Committee meeting.

West Wiltshire District Council provided pre-application advice in 2005 for a proposed dwelling on the land, W/05/01868/PDENQ and pre-dating this an application was refused for the erection of a dwelling (89/01619/OUT).

In 1985 an application was refused for the change of use from existing pig rearing unit to fish bait breeding (85/01021/FUL).

5. The Proposal

Under this application, the applicant seeks planning permission for the retention of the agricultural workers dwelling for a temporary period. The temporary agricultural workers dwelling is already positioned on site thereby resulting in this retrospective application. According to paragraph 5.2 of the Design and Access Statement the temporary period is for 'a maximum of three years'.

The agricultural workers dwelling is T shaped with a footprint of approximately 63 square metres. It measures approximately 9.12 metres in length of which it has a width of approximately 4.94 metres for the first 6.13 metres, extending to a width of 10.89 metres for 2.99 metres (where it forms the T) and has a ridge height of approximately 2.31 metres. It is constructed of cedar timber weatherboarding under a plastic coated steel sheeting roof with stained timber doors and windows. It is serviced by a septic tank.

The proposal also includes blocking up the access in the north-west corner of the land with native hedge planting.

The sheds/former railway carriages used for domestic storage do not form part of the application site outlined in red).

The application is supported with a design and access statement and an agricultural appraisal which has been assessed by an agricultural consultant.

6. Planning Policy

National Planning Policy Framework (NPPF)

- Section 1: Building a strong and competitive economy
- Section 3: Supporting a prosperous rural economy
- Section 4: Promoting Sustainable Transport
- Section 6: Delivering a wide choice of high quality homes
- Section 11: Conserving and Enhancing the Natural Environment

West Wiltshire District Plan First Alteration 2004

- C1: Open Countryside
- C31a: Design
- C32: Landscaping
- C38: Nuisance
- E6: Rural Employment
- H19: Development in the Open Countryside
- H24: New housing design
- T10: Parking
- U1a: Foul Drainage Disposal
- U2: Surface Water Disposal

The Emerging Wiltshire Core Strategy

The following Emerging Strategic Objectives of the Council enshrined within the (eWCS) are relevant to this application: Delivering a thriving economy; To provide everyone with access to a decent affordable home; Helping to build resilient communities; Protecting and enhancing the natural, historic and built environment; and Ensuring that adequate infrastructure is in place to support our communities.

- Core Policy 41: Sustainable construction and low-carbon energy
- Core Policy 44: Rural exception sites
- Core Policy 45: Meeting Wiltshire's Housing Needs
- Core Policy 48: Supporting rural life
- Core Policy 50: Biodiversity and Geodiversity
- Core Policy 51: Landscape
- Core Policy 57: Ensuring high quality design and place shaping
- Core Policy 60: Sustainable Transport
- Core Policy 61: Transport and Development

It is noted that the submitted Design and Access Statement makes reference to the policies of the North Wiltshire Local Plan 2006. However, these policies are not relevant to this application as the site is located in the old West Wiltshire District area and therefore the saved policies of the West Wiltshire District Plan First Alteration 2004 apply in this instance.

7. Consultations

South Wrexall Parish Council: Object. The Parish Council request that the application is determined by the Planning Committee due to the claim of commercial justification and need to live on the site and potential precedent it could set. The Parish Council stress that it is vital that the applicant demonstrates to the Council's satisfaction, that 2.5 acres is enough to create a viable business as they state that they are extremely sceptical. They also suggest that proof should be obtained that residence on site is vital, not just nice to have. Many pig businesses apparently do not have farmers in residence. If this application is approved it may be difficult to stop the uncontrolled development of the countryside.

Highways: The highways officer notes that the application is similar to the previous proposal (13/01781/FUL) and as such wishes to reiterate their comments in that no objection to the principal of an agricultural dwelling at this location if an economic/business viability can be satisfied, if that is not the case then an objection on the grounds of sustainability would be raised. The officer also notes that during the 2012 application discussions took place at that time with regards to improvements on the access to achieve a decent level of visibility. Officers examined the records and note that the applicant previously supplied a speed survey which suggests that average speeds are around (top speed) 30mph. Officers agree that in relation to the speeds as suggested a visibility of 2.4m x33 m (shown on the submitted plan) is acceptable.

In summary, Officers would be happy to accept the proposal subject to the visibility being conditioned, along with a properly designed and conditioned access, I shall also expect the North West second access to be fully stopped up from use. Conditions are advised should any planning permission be granted.

Agricultural Consultant: The agricultural consultant raises concerns relating to the labour requirement for the business. In summary the labour required is in excess of one full time unit. The profit for the business is shown as marginally less than the cost of a full time unit of labour, based on the minimum agricultural wage. It is their conclusion, therefore that the business has not been planned on a sound financial basis.

8. Publicity

The application was advertised by site notice and neighbour notification. Expiry date: 23rd October 2013

A total of five comments have been received. Three of the representations have been received in support of the proposal, whilst one representation raises no objection to the proposal and a further representation neither supports nor objects to the proposal.

One of the supporting comments has been received from the owner of Lowden Farm Shop, Restaurant and Garden Centre who explains that the applicant has been supplying my farm shop and restaurant with his pigs and lambs for some time.

The first of the two other supporting representations received explains that as a local business we fully support other local businesses and believe that Elbridge Farm is a fantastic producer. We use them on a very regular basis and they are our main supplier of pork and lamb. Whilst the second representation explains that as a local resident they like to preserve and protect our traditional countryside life and as a regular user of the public Rights of Way in the area they enjoy seeing happy animals where-ever I go.

One representation comments that although they are supportive of both providing opportunities for local business and anything that tidy's this particular site which remains an eye sore. They explain that before being supportive they would though need to understand why the main site for the proposed number of pigs and sheep is the small site at Chalfield rather than the larger site the business leases at Monkton Farleigh. Basing the business at the larger site in its entirety, would seem to reduce the impact of transport between the two sites (access and parking are limited) and appear to enable the proposed expansion more effectively.

9. Planning Considerations

9.1 Justification for an agricultural workers dwelling

The current application for the agricultural workers dwelling is associated with the introduction of the new farm business operating on the land.

The temporary dwelling is already positioned on site thereby resulting in this retrospective application. The dwelling forms a T shape and is located in the North East corner of the site. It is constructed from timber.

In this case the principle guidance and policies applicable are Section 6 of the NPPF and policy H19 of the West Wiltshire District Plan First Alteration. Both explain that new dwellings in isolated locations must demonstrate a genuine “essential need” whilst placing a firm onus on the applicant to justify why any new development should be granted. The emerging Core Strategy also considers the provision of new dwellings in the countryside as rural exception sites but as with the NPPF and current local plan policy, only in certain circumstances, such as agricultural workers dwellings. The relevant core policies state that applications for these dwellings should be supported by functional and financial evidence and that applications will be scrutinised thoroughly.

The National Planning Policy Framework (NPPF) was introduced in 2012 and replaces all previous Planning Policy Statements (PPS), including PPS7 which provided clear advice on how applications for agricultural dwellings should be treated. It recognised 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 depended on the needs of the farm enterprise concerned.

Paragraph 5 of the NPPF states that “local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as (*inter alia*) the essential need for a rural worker to live permanently at or near their place of work in the countryside”. Although no guidance is given in the NPPF the “essential need for a rural worker to live permanently at or near their place of work in the countryside” can only be judged on an objective basis and necessarily involves a test of functional need. It is considered, therefore that although Annex A to PPS7 no longer forms parts of the policy as such, it nevertheless provides an appropriate way in which this issue should be approached.

With regard to the provision of temporary agricultural dwellings PPS7 specified that a temporary structure should be either a caravan or a wooden structure which could be easily removed. These dwellings were permitted only where they satisfied the following criterion:-

- (i) 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);
- (ii) proving a functional need;
- (iii) providing clear evidence that the proposed enterprise has been planned on a sound financial basis;
- (iv) 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,
- (v) other normal planning requirements, e.g. on siting and access, are satisfied.

Paragraph 12 (4) of Annex A of PPS7 stated that any proposed temporary agricultural dwelling proposal must meet a financial and functional test, 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 required 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 stated 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”.

If the proposal fails to satisfy the NPPF’s requirement to prove ‘essential need’, the 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...” as well as the requirements of the relevant policies in the emerging Core Strategy.

With regard to the requirements of Annex A to PPS7 it is noted that in paragraph 5.5 of the Design and Access Statement the applicant's agent bases the justification of criterion (i) on the applicants investment in erecting a replacement farm building. However, officers consider that the erection of a replacement building falls some way short of providing the 'clear evidence of a firm intention and ability to develop the enterprise' that is required by criterion (i).

The *functional test* is necessary in order 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. This has been assessed by the agricultural consultant in their Agricultural Assessment of the Planning Application report. Their opinion is that the "essential need asserted by the applicant will only arise through the implementation of the business as proposed" but they advise "if the proposed business has not been planned on a sound financial basis then the business will fail and the authority would be left with a dwelling but no 'essential need' for its presence". Based on this assessment it is evident that the application fails to meet the *functional test* of criteria (ii).

The applicant's agent explains that in their opinion there is no requirement to apply a test to determine financial soundness and all that needs to be demonstrated is the 'potential' to attain viability associated with the proposed business. However, it is evident from, past, present and future planning policy that it is a long held consideration that financial soundness should be demonstrated in a business plan. For example, Section 6 of the NPPF and policy H19 of the local plan both explain that a genuine 'essential need' must be demonstrated by the applicant. The emerging Core Strategy also recognises this and states that applications should be supported by functional and financial evidence. It is also important to consider the requirements of the former PPS7 which expressly referred to a business being planned on a 'sound financial basis'. Taking into consideration the necessary information required in order to fully assess an application of this nature it is evident that a proposed business must be demonstrably planned on a sound financial basis. That must mean that the projected returns exceed the projected costs. In this case, as with any other proposed business, the plan must be financially sound and therefore it is assessed on this basis. It is the opinion of the agricultural consultant that 'if a business is not planned on a sound financial basis then it has very little prospect of success'.

As part of their assessment the agricultural consultant has assessed the financial basis of the enterprise. Their findings demonstrate that the projected profit is very marginally in excess of the current full time minimum agricultural wage. In the previous application the agricultural appraisal advised that an overall labour requirement of some 2,700 hours, which is just under 1.5 full time units of labour, however the applicant now advises that through a revised arrangement over windfall produce the labour requirement has been reduced to some 2,221 hours which is in excess of one full time labour unit. The agricultural consultant is of the opinion that "given that the profit for the unit is projected as only fractionally ahead of the opportunity cost of one full time unit and the labour requirement remains in excess of one unit then the financial soundness of the proposed business remains questionable". Based on this assessment and their concluding statement which suggests that in their opinion the business has not been planned on a sound financial basis officers consider that the application fails to meet criteria (iii).

Information has been submitted assessing the availability of properties for sale or to rent within a 3km radius of the site. Paragraph 5.15 of the Design and Access Statement claims that of the four properties available for sale all are too distant from the site to meet a 24 hour supervision of the livestock enterprise and all but one would well exceed the financial capability of the farm. According to paragraph 5.14 there were no houses to rent at the time the research was undertaken. Although this information goes some way to meet the requirements of criterion (iv) no evidence is supplied as to the length of time this research was conducted which could have quite likely been on a single day as the internet pages supplied showing the relevant properties state 12th September 2013.

The issues contained within criteria (V) relating to siting, etc. are discussed at a later point in this report.

Policy H19 of the West Wiltshire District Plan 2004 accepts the principle of providing essential agricultural workers a house on site. However the application has not provided a justification of the need of a dwelling on site. The Agricultural Holding is currently small scale which according to the submitted information and the newly constructed agricultural building indicates that the applicant wishes to enlarge the enterprise. Although this shows an indication of the holding being used it is not justification for a temporary agricultural workers dwelling as it fails to meet the functional or financial tests set out in Annex A of PPS7.

It is evident from the above assessment that the proposal fails to justify the need for a temporary dwelling in this location in terms of functionality, financial and explaining why other dwellings in the vicinity are not acceptable and therefore the proposal is considered to be unacceptable. This together with the agricultural consultants opinion that the business has not been planned on a sound financial basis it is considered by officers that the temporary dwelling is unacceptable and fails to comply with the National Planning Policy Framework, Annex A of PPS7 and policy H19 of the West Wiltshire District Plan 2004.

9.2 Impact on the countryside

As the need for a temporary agricultural workers dwelling has not been established it is necessary to assess the proposal and its impact on the open countryside.

The proposed dwelling due to its prominent position located on a hill has harmed the character of the area due to being located in an unsustainable location meaning that the proposal would be reliant on the car, and not in close proximity to facilities like shops and bus routes. This means that the proposal would impact on the character of the open countryside as additional traffic would impact on the setting of the area. In addition due to the position and design of the dwelling the proposal would be alien and fail to respect the character of the area and the spatial form the surrounding sporadic development. This is contrary to the Nation Planning Policy Framework and therefore the proposal is considered to be unacceptable.

9.3 Servicing and road safety interests

The temporary dwelling is served by a substandard access and narrow lanes and located well outside of village policy limits. The proposal, located remote from services, employment opportunities and being unlikely to be well served by public transport and would be reliant on the use of private vehicle, is contrary to both Local and National Policies which aim to promote sustainable development and which seeks to promote sustainable transport with fewer journeys. As such it is officer's opinion that the proposal is unacceptable.

10. Conclusion

The proposed development fails to meet both national and local policy and in particular fails prove sufficient justification to substantiate an 'essential need' for and agricultural workers dwelling at the site.

Although without exact dates the reason the applicants intentions and reason why they began operating the business at the site it is obvious from the planning history and information submitted as part of this planning application that the applicant started an agricultural business in March 2010, the same time that planning enforcement officers investigated the breach. A date which supersedes the erection and occupation of the building as a dwelling.

Taking this into consideration as well as the fact that the business fails to prove the sound financial justification required officers recommend that the application be refused.

RECOMMENDATION

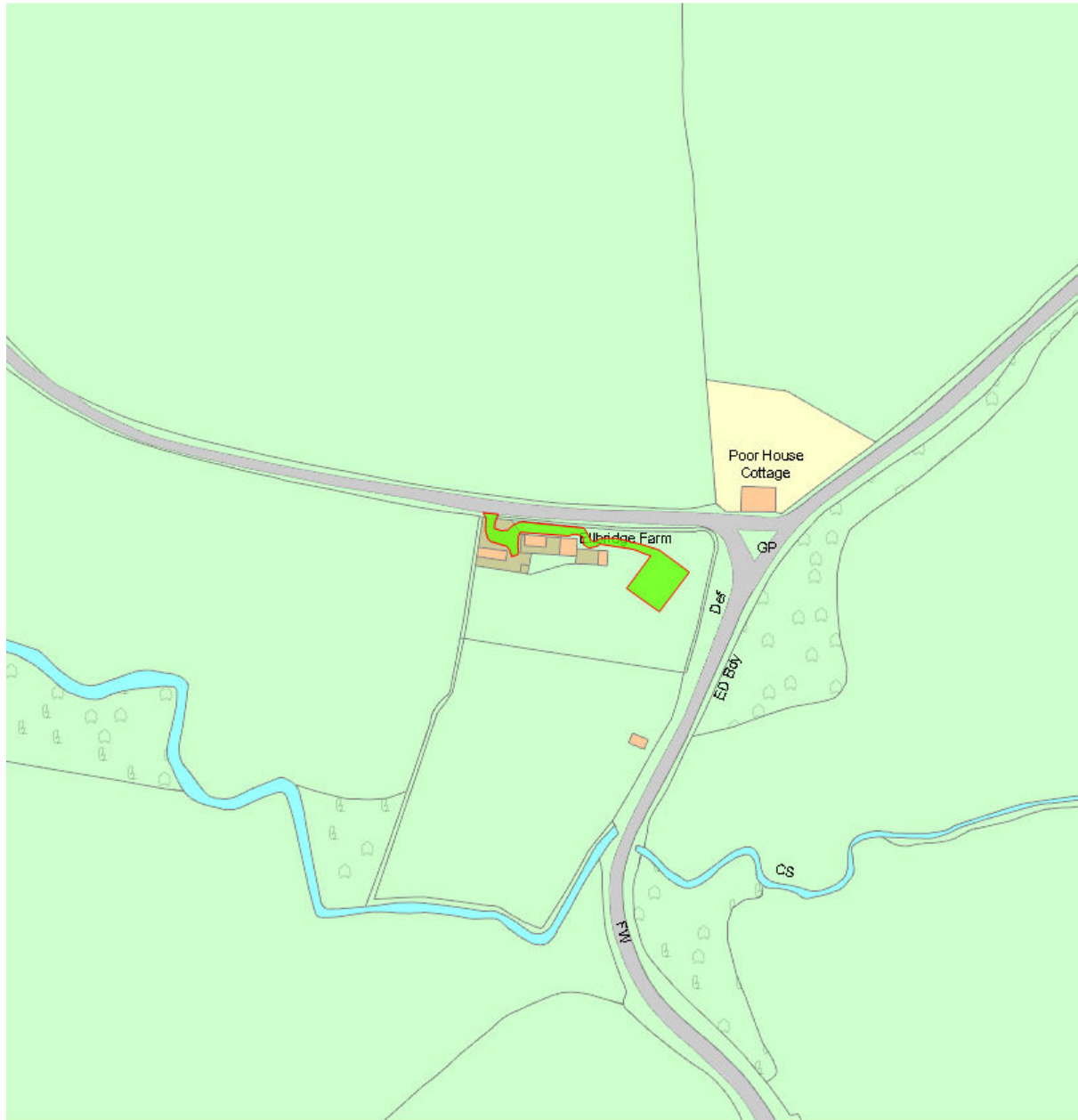
Refusal, for the reasons set out below

- 1 The proposed temporary agricultural workers dwelling by reason of its position, size and lack of justification is considered to harm the character of the open countryside. The justification provided does not provide a sound financial basis or a functional need for a dwelling to be on site. This lack of substantive evidence and the position of the dwelling, outside of village policy limits is considered to be contrary to the guidance of the National Planning Policy Framework (NPPF) and Policy H19 of the West Wiltshire District Plan First Alteration 2007.
- 2 The proposed dwelling by reason of its prominent position, design and size would be alien to its surroundings and would fail to respect the character of the area and the spatial form the surrounding sporadic development contrary to the guidance contained within the National Planning Policy Framework (NPPF) and Policy H19 of the West Wiltshire District Plan First Alteration 2007.
- 3 The dwelling is located outside the defined limits of development in a location remote from services, employment opportunities and being unlikely to be well served by public transport. It would therefore be reliant on the use of private vehicle and increase the amount of traffic in the area. As such it is contrary to the requirements of the National Planning Policy Framework (NPPF) which seeks to reduce the need for travel, influence the rate of traffic growth and reduce the environmental impact of traffic overall in support of sustainable development.

Appendices:

Background Documents Used in the Preparation of this Report:

ITEM 4 – 13/4201/FUL
Ellbridge Farm Lower South Wraxall



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REPORT TO THE WESTERN AREA PLANNING COMMITTEE

Date of Meeting	5 th February 2013
Application Number	13/05406/FUL
Site Address	2 The Downlands Warminster Wilts BA12 0BD
Proposal	Two-storey timber clad structure to enclose pool and provide a playroom on the floor over.
Applicant	Mr & Mrs M Turner
Town/Parish Council	WARMINSTER
Grid Ref	388021 145336
Type of application	Full Planning
Case Officer	Steve Vellance

Reason for the application being considered by Committee :

Cllr Newbury has requested this application be submitted to Committee for consideration of the scale of the development, its relationship to neighbouring properties, the proposal's design, bulk, height, general appearance and to consider whether the application complies with development plan policy.

1. Purpose of Report

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

Neighbourhood Responses – Nine letters and emails of objection were received.

Parish Council Response – Object to the application on the grounds that the scheme represents overdevelopment, causes a loss of amenity and is out of keeping with the area.

2. Report Summary

The main issues to consider are:

- Design.
- Impact upon the neighbouring residential amenity.
- Visual impact.

3. Site Description

The application site is number 2 The Downlands, Warminster, it is an established residential development accessed off Copheap Lane. The principal building is a fairly substantial dwelling with a large sized rear garden.

The application relates to the rear garden area, where the existing swimming pool is located, which would be renovated and reduced in size. In connection with these renovation works a pool building is proposed to cover the swimming pool with a children's playroom at first floor level.

4. Relevant Planning History

W/10/03875/FUL – Extensions and alterations Permission 27.01.2011

5. The Proposal

The proposal is for the construction of a swimming pool building that would completely cover the swimming pool area, it would be timber clad with a mansard style roof covered in grey fibre glass. The structure would also have a children's' playroom at first floor level.

Fenestration at ground floor level would consist of two windows and double entrance doors, whilst at first floor level there would be three small sized roof lights.

The proposed dimensions would be 13.7metres (length) by 8.3metres (width) with a total roof height of 5.1metres.

6. Planning Policy

West Wiltshire District Plan 1st Alteration (2004)

C31a Design

C38 Nuisance

National Planning Policy Framework (NPPF)

7. Consultations

Warminster Town Council objects to the proposal on grounds that:-

-Overdevelopment of the site.

-Loss of amenity.

-Out of keeping for the area

Wiltshire Council Environmental Health:

No objections raised, request that a planning condition be attached relating to the swimming pool pump enclosure, requesting the submission of details for approval prior to use.

8. Publicity

The application was advertised by way of site notice and letters to neighbours.

Nine letters and emails of objection were received, with some people writing in more than once, the following points were raised:

-The Downlands has a Restrictive Deed of Covenant in place, restricting development on this residential estate.

-Plans do not give numerical values of measurements.

-Proposal is over development of the site and is not in keeping with character of neighbouring properties.

-Building process, deliveries and traffic would inconvenience residents.

-Pool facility would attract family and friends and create parking problems.

-Concern that the pool building could be converted to other uses.

-Overbearing impact to neighbour at no.1, due to slightly higher land levels at the application site.

-Overbearing and overlooking of neighbour at no.3 due to high level side window.

-Children's noise from the playroom would impact on amenities of neighbours.

-Query as to why a second playroom is required, as the main dwelling has a playroom.

-Description inaccurate should reflect that of a two storey building.

9. Planning Considerations

The application concerns No. 2 The Downlands, which is a detached house which is set within a row of dwellings along this particular stretch of the Downlands. The property sits within a good sized plot and has substantial boundary treatments in place. Access to the property is from the front, where there is ample car parking.

The current application proposes the construction of a swimming pool building that would completely cover the swimming pool area, it would be timber clad with a Mansard style roof covered in grey fibre glass. The structure would also have a children's playroom at first floor level. The proposed fenestration at ground floor level would consist of two windows and double entrance doors, whilst at first floor level there would be three small sized roof lights facing towards the principal dwelling.

9.1 Design/Impact

The size of the proposed swimming pool building is considered on balance appropriate in scale to the existing dwelling and the application site as a whole. The building would be set away from the dwelling and sited to the rear of the garden where it would cover the existing pool, which would be renovated and reduced in size. The footprint of the building would be slightly less than the current dimensions of the pool and the maximum pitched height of the building would be 5.1 metres, which when compared to the 7.1 metre height of the dwelling would be a subservient addition.

The proposal would not be visible from the public realm due to it being sited within an enclosed rear garden area; thus there would not be any significant material harm to the visual amenity of the area or street scene.

Taking into consideration the above points, the proposal is considered to conform to policy C31a of the District Plan.

9.2 Residential Amenity

The two properties likely to be affected by the proposal would be numbers 1 and 3 The Downlands, whereby the pool building would be sited 6metres and 9.5metres away from the boundaries of these two properties. In terms of minimum distances to the closest points of the neighbouring buildings themselves, these would be approximately 36metres to number 3 and 37metres to number 1.

These distances are significant because they indicate the pool building would be set away from both of the boundaries and the neighbouring dwellings, thereby ensuring there would be minimal visual impact from the proposal. The first floor side window initially indicated within the plans, has now been removed, thereby ensuring there would be no overlooking of number 3. It is recognised that the rear garden land levels within number 1 are slightly lower than those within the rear garden of the application site, any such differences are considered to be offset by the distances as detailed above and the existing boundary treatments, ensuring that there would be no direct impact as such.

In terms of existing trees within the garden offering screening of the proposed building, there are a number of existing trees which would be retained, these consist of Hazel, Cherry and Espalier, of which photographs have been supplied.

The boundary treatment to number 3 consists of a block wall and fencing with a height of 2.3 metres. Likewise, the boundary treatment to the neighbour at number 1 also consists of a high level concrete block wall, with high level Hazel trees (6-7 metres tall) located within the south west corner of the applicant's garden offering further screening.

The orientation of the pool building is in itself significant, in that it has been designed to not directly face or overlook numbers 1 and 3. The proposed high level roof lights would all be located on the

inclined slope of the roof, facing in towards the host building, the cumulative net effect of these design features would be to remove or mitigate the perception of being overlooked. To ensure no overlooking occurs in the future, a condition is attached ensuring that no openings can be constructed at first floor level, without the need for planning permission.

Therefore, whilst visible, it is considered the visual impact of the proposal would be minimal to the two neighbouring properties, for the above stated reasons. No other neighbours would be affected by the proposed development.

In terms of noise impact from the proposal, the Environmental Health Team have been consulted, and raised no objections, requesting that a planning condition be attached relating to the swimming pool pump enclosure, for the submission of details and subsequent approval prior to its' use. A condition has been attached, together with an informative.

Taking into full consideration the above points, the application is considered to meet the requirements of Policy C38 of the District Plan, which aims to protect neighbour amenity.

9.3 Other Matters.

The planning consultation process raised a number of points, one of which relates to a restrictive deed of covenant in force at The Downlands. Whilst understood, any such covenant cannot be taken into consideration within the planning process because such matters are private civil issues and not planning related.

There is also concern from the neighbours that the pool building could be converted to a different use in the future. Such concerns are understood, however the building and in particular the top first floor may be used by the household for any purpose that is ancillary to the general domestic use of the main house. This could include an ancillary office use to enable working from home to take place, or as described in this instance a children's playroom which will also be used a home gym. If there was any intention to use the building for any purpose not ancillary to the main dwelling house, then this proposed use would need to be the subject of a planning application whereby the planning merits of the scheme would be fully tested. In order to safeguard and tie the use of the pool building to the main dwelling at number 2, a planning condition to this effect has been attached.

Concern has been raised by the neighbours relating to possible disturbances caused by the building process, such as traffic and noise from the building process. The proposed works are relatively small and should be short lived.

Concern has also been raised relating to the use of the building itself by family and friends and possible noise issues being created. This is an aspect which the planning process cannot control and any such noise related nuisance should be reported to the Environmental Health section of the Council who would investigate accordingly.

10. Conclusion

The primary consideration in determining a planning application is the Development Plan, whereby in this case the relevant policies are C31a and C38. Taking the above into full account, the application is not considered contrary to these policies, as it does not cause any significant harm that would justify a refusal of planning permission.

RECOMMENDATION: Planning permission be granted with the attached 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 utilised within this development shall accord with the schedule of materials as described within the planning application form, dated 28 October 2013.

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

- 3 The swimming pool building shall not be converted to habitable accommodation.

REASON: To safeguard the amenities and character of the area.

- 4 The building hereby permitted shall not be used at any time other than for purposes ancillary to the residential use of the dwelling known as 2 The Downlands, Warminster and shall not be separately let or sold.

REASON: To safeguard the amenities and character of the area.

- 5 No windows, doors or other form of openings other than those shown on the approved plans, shall be inserted at first floor level of the building hereby permitted.

REASON: In the interests of residential amenity and privacy.

- 6 No development shall commence on site until a scheme of works for the attenuation of noise from the pool pump room shown on the approved plans, has been submitted to and approved in writing by the Local Planning Authority. Any works which form part of the approved noise attenuation scheme shall be completed in full in accordance with the approved details, prior to the pool pump being brought into use and shall be maintained in accordance with the approved details at all times thereafter.

REASON: In the interests of residential amenity.

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

Drawing number 201/01B received on the 20 November 2013

Drawing number 201/02 received on the 20 November 2013

Drawing number 201/03 received on the 20 November 2013

Drawing number 201/04B received on the 06 January 2014

Land levels received on the 06 January 2014

Sectional drawing received on the 06 January 2014

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

- 8 INFORMATIVE: The scheme submitted pursuant to condition 6 above, should demonstrate that the pool pump room will be acoustically insulated such that the rating level of noise emitted from the pump does not exceed the existing background noise levels. For the purposes of preparing the scheme, the background noise level should be determined at the nearest noise sensitive premises and the measurement and assessment should be made in accordance with BS4142.1997.

ITEM 5 – 13/05406/FUL
2 The Downloads Warminster



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REPORT TO THE WESTERN AREA PLANNING COMMITTEE

Date of Meeting	5 th February 2014
Application Number	13/06834/VAR
Site Address	Land Rear Of 90 And 88a And 88b Dursley Road Trowbridge Wiltshire
Proposal	Variation of Condition 2 of planning application W/13/00618/FUL to allow for increase in floor area for provision of third bedroom and cloakroom to each bungalow
Applicant	Mrs Joan Toogood
Town/Parish Council	TROWBRIDGE
Grid Ref	385728 157116
Type of application	Full Planning
Case Officer	Jemma Boustead

Reason for the application being considered by Committee

Councillor Payne has requested that the application be called to the Planning Committee for the following reasons:

- Scale of development
- Visual impact upon the surrounding area
- Relationship to adjoining properties
- Design – bulk, height, general appearance
- Environmental/highway impact
- Car Parking
- Other: Increase in the size of the development by 11.8% beyond that which is already unreasonable for the size of the plot and position relative to other houses. It is significantly detrimental to the amenity of neighbouring properties and is likely to result in an unreasonable further increase in traffic via an adequate access.

1. Purpose of Report

To consider the above application and to recommend that the Variation to Planning Permission W/13/00618/FUL be granted

2. Report Summary

The main issues to consider are:

- whether the changes proposed by the variation of condition 2 are acceptable

3. Site Description

The site is located to the rear of two semi detached properties and is currently vacant and has no known previous use. Running to the rear of the site is the train line. The site has an existing vehicular access.

4. Planning History

W/13/0618/FUL – Erect two bedroom bungalows – Approved 12/06/2013

W/12/02042/FUL – Detached 3 bed Bungalow for use by disabled/elderly persons – Approved 20/12/2012

W/00/01337 – Bungalow and Detached Garage – Refused 18/12/2000 for the following reasons:
The proposal, by reason of the siting of the bungalow, would be detrimental to the residential amenities, in particular, loss of privacy and general disturbance of adjacent dwellings in Dursley Road. The proposal, hence would be contrary to Policy H1 of the West Wiltshire District Plan and Policy H1 of the West Wiltshire District Plan - 1st Alteration (Revised Deposit).

The proposed access road, by reason of its restricted width, poor alignment and substandard junction with Dursley Road is considered unsuitable to serve as a means of access to the proposed development.

W/00/00765 – Two Detached Bungalows with garages and ancillary works – Refused 06/07/2000 for the following reason:

The proposal by reason of the siting of the bungalows, would be detrimental to the residential amenities, in particular, loss of privacy and general disturbance of adjacent dwellings in Dursley Road. The proposal, hence, will be contrary to Policy H1 of the West Wiltshire District Plan and Policy H1 of the West Wiltshire District Plan - 1st Alteration (Deposit Draft) July 1998.

5. The Proposal

The proposal is vary condition 2 of planning permission W/13/00618/FUL to allow the approved dwellings to be increased by 1 metre in depth and 250mm in height. The cloakrooms are also proposed to be extended in depth by 1.2 metres and in width by 0.3 metres.

6. Planning Policy

West Wiltshire District Plan 1st Alteration 2004 =

- C31a Design
- C38 Nuisance
- H1 Further Housing Development within Towns

Wiltshire Local Transport Plan 2011-2026: Car Parking Strategy

National Planning Policy Framework (NPPF) requires development that is sustainable and in accordance with the policies of the development plan to be approved, unless material considerations indicate otherwise.

7. Consultations

Trowbridge Town Council - Meeting on 28th February, Update to be given at Planning Committee

Wiltshire Council Highways – No Objections

Network Rail – Raised no objections to the previous application and therefore it is considered that they would not object to the current application.

8. Publicity

The application was advertised by site notice & neighbour notification - Expiry date: 2/2/2014

1 letter of support and 1 letter of objection has been received at the writing of this report, making the following comments:

- I support the application - The inclusion of a cloakroom in addition to the bathroom should be made mandatory for all new properties
- Why is there a need for a third bedroom and cloakroom when these bungalows are supposed to be for elderly or disabled persons?
- The developer should build what they have planning permission for
- Bedroom tax may become an issue

9. Planning Considerations

9.1 Assessment of Changes

Full planning permission was granted on 12th June 2013 for the erection of two dwellings. Condition 2 of this permission detailed the drawing numbers that were approved. The proposal is to replace the approved drawings with new drawings to allow the dwellings to be larger. A Government Guidance Document “Greater Flexibility for planning permissions” states that when making decisions *the Local Planning Authority should focus their attention on national or local policies or other material considerations which may have changed significantly since the grant of permission as well as the changed sought.*

The proposed plans show a slightly different dimension on the boundaries. This is due to accurate measurements being taken during the site clearance/construction process and is not considered to significantly change the application. The depth of the approved dwellings have been extended by 1 metre in depth which in turn makes the ridge approximately 250mm higher and the garden area has been changed slightly. The Local Ward Councillor has stated that the increase measures 11.8%^m, however the Agent has stated that there would be a 14.8% change in floor area.

There has been no significant change in policy since the previous application was approved and therefore the changes sought through the variation will now be looked at.

In terms of design (materials, windows, doors) the proposal does not change and therefore is considered to be appropriate.

The proposed increase in depth and height would not see the dwellings brought closer to the boundaries with the adjacent neighbours. Windows and doors are in the same location on the proposed dwellings and therefore it is considered that the proposal would not have an adverse impact upon neighbouring amenity.

The proposal would not result in an increase in cars as there is no increase in dwelling numbers. It is also considered that the proposed changes would not encroach on land that was previously approved for the parking and turning of vehicles and therefore it is considered that there would be no impact upon highway safety.

9.2 Other

A neighbour has raised concern about why a third bedroom was required. The previous application was not approved on the basis of it being for an elderly or disabled person and the issue of bedroom tax is not a matter to be taken into consideration when making a recommendation on the application.

10. CONCLUSION

As there has been no significant change in policy and the proposal would not adversely impact upon neighbouring amenity, the wider area or highway safety the variation is considered to be acceptable.

RECOMMENDATION

Grant planning permission, subject to the following conditions.

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

2013-16: 01A, 02A, 03A, 04 received by the Local Planning on 31st December 2013

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

- 2 The materials to be used in the construction of the external surfaces of the development hereby permitted shall be as stated in the application form received by the Local Planning Authority on 8th April 2013 for application W/13/00618/FUL unless otherwise agreed in writing by the Local Planning Authority.

REASON: In the interests of visual amenity and the character and appearance of the area having regard to Saved Policy C38 of the West Wiltshire District Plan 1st Alteration 2004

- 3 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 building 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 having regard to Saved Policy C31a and C38 of the West Wiltshire District Plan 1st Alteration 2004

- 4 No part of the development hereby permitted shall be occupied until the access, turning area and parking spaces have been completed in accordance with the details shown on drawing number 2013-16 03A received on 31/12/13 unless otherwise agreed in writing by the local planning authority. The parking and turning areas shall be maintained for those purposes only at all times.

Reason: In the interests of highway safety having regard to advice in the National Planning Policy Framework and the Wiltshire Local Transport Plan 2011-2026: Car Parking Strategy.

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ITEM 6 – 13/06834/VAR
Land rear of 90 and 88b Dursley Road Trowbridge



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