

AGENDA

Meeting: Southern Area Planning Committee
Place: The Guildhall, Market Place, Salisbury, Wiltshire, SP1 1JH
Date: Thursday 18 April 2013
Time: 6.00 pm

Please direct any enquiries on this Agenda to Pam Denton, of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line (01225) 718371 or email pam.denton@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 Richard Britton | Cllr Ian McLennan |
| Cllr Brian Dalton | Cllr John Smale |
| Cllr Christopher Devine | Cllr Fred Westmoreland |
| Cllr Jose Green | Cllr Ian West |
| Cllr Mike Hewitt | Cllr Graham Wright |
| Cllr George Jeans | |

Substitutes:

| | |
|---------------------|--------------------------|
| Cllr Ernie Clark | Cllr Christopher Newbury |
| Cllr Mary Douglas | Cllr Stephen Petty |
| Cllr Russell Hawker | Cllr Leo Randall |
| Cllr David Jenkins | Cllr Ricky Rogers |
| Cllr Bill Moss | |

AGENDA

Part I

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

1 **Apologies for Absence**

2 **Minutes** (*Pages 1 - 24*)

To approve and sign as a correct record the minutes of the meeting held on 7 March 2013 (copy herewith).

3 **Declarations of Interest**

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

4 **Chairman's Announcements**

5 **Public Participation and Councillors' Questions**

The Council welcomes contributions from members of the public.

Statements

Members of the public who wish to speak either in favour or against an application or any other item on this agenda are asked to register in person no later than 5.50pm on the day of the meeting.

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

Questions

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

particular, questions on non-determined planning applications. Those wishing to ask questions are required to give notice of any such questions in writing to the officer named on the front of this agenda no later than 5pm on **Thursday 11 April 2013**. 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 **Highways Act 1980 - Section 119 and Wildlife and Countryside Act 1981 - Section 53 The Wiltshire Council (West Tisbury No. 21) Public Path Diversion Order 2012 and Definitive Map and Statement Modification Order 2012** *(Pages 25 - 88)*

7 **Planning Appeals** *(Pages 89 - 90)*

To receive details of completed and pending appeals (copy herewith).

8 **Planning Applications** *(Pages 91 - 92)*

To consider and determine planning applications in the attached schedule.

8a **S/2013/0056/Full - Stonehenge Campsite, Berwick St. James, Salisbury** *(Pages 93 - 126)*

8b **S/2012/0521/Full - Old Sarum House, Portway, Old Sarum, Salisbury** *(Pages 127 - 144)*

8c **S/2013/0020/Full - 37 York Road, Salisbury. SP2 7AT** *(Pages 145 - 154)*

8d **S/2013/0279/Full - 12 Burford Avenue, Salisbury. SP2 8AG** *(Pages 155 - 160)*

9 **Urgent Items**

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

10 **Exclusion of the Press and Public**

To consider passing the following resolution:

To agree that in accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public from the meeting for the business specified in Item Number 11 because it is likely that if members of the public were present there would be disclosure to them of exempt information as defined in paragraph 1 of

Part I of Schedule 12A to the Act and the public interest in withholding the information outweighs the public interest in disclosing the information to the public.

Part II

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

11 **The Old Coach House East Grimstead - update**

To receive a verbal update

SOUTHERN AREA PLANNING COMMITTEE

**DRAFT MINUTES OF THE SOUTHERN AREA PLANNING COMMITTEE MEETING
HELD ON 7 MARCH 2013 AT ALAMEIN SUITE - CITY HALL, MALTHOUSE LANE,
SALISBURY, SP2 7TU.**

Present:

Cllr Richard Britton, Cllr Brian Dalton, Cllr Christopher Devine, Cllr Jose Green (Vice Chairman), Cllr Mike Hewitt, Cllr George Jeans, Cllr Ian McLennan, Cllr John Smale, Cllr Fred Westmoreland (Chairman), Cllr Ian West and Cllr Graham Wright

21 Apologies for Absence

There were no apologies for absence

22 Minutes

The minutes of the meeting held on 14 February 2013 were presented.

Resolved:

To approve as a correct record and sign the minutes.

23 Declarations of Interest

24 Chairman's Announcements

The Chairman explained the meeting procedure to the members of the public.

The Chairman announced that application S/2013/1809 – 31 York Road, Salisbury, had been deferred.

25 Public Participation and Councillors' Questions

The committee noted the rules on public participation.

26 Planning Appeals

The committee received details of appeal decisions as detailed in the agenda.

27 Planning Applications

²⁷ **S/2012/1777/S73 - Stonehenge Campsite, Berwick St. James, Salisbury**
a

Public participation:

Mr William Grant spoke in support of the application

A site visit was held prior to the meeting which was attended by the following members:

Cllr R Britton
Cllr B Dalton
Cllr J Green
Cllr M Hewitt
Cllr J Smale
Cllr F Westmoreland
Cllr I West
Cllr G Wright

The Planning Officer introduced the report and drew attention to the late correspondence. The application was landscaping proposals for a scheme of native trees and hedges to ensure that the campsite blends into the landscape.

A debate ensued and it was

RESOLVED:

Planning Permission be GRANTED for the following reason:

The Council is required to give a summary of the reasons for this decision and its conditions, and a summary of the development plan policies and proposals relevant to the decision and its conditions. These are set out below:

The decision to grant planning permission has been taken on the grounds that the proposed development would not cause any significant harm to interests of acknowledged importance and having regard to the National Planning Policy Framework and the following policies in the South Wiltshire

Core Strategy, namely policies:

- G1 – General principles for development
- G2 – General criteria for development
- C2 – Development in the countryside
- C6 – Special landscape area
- CN11 – Views in and out of conservation areas
- CN21 - Archaeology
- T9 – Touring caravans and tents

In accordance with paragraph 187 of the National Planning Policy Framework, Wiltshire Council has worked proactively to secure this development.

Subject to the following conditions:

1. The development shall be carried out strictly in accordance with the approved plans (Site location Plan, Planning application plan: PV 316/WFG/TA, Landscape Plan 2010 and drawing WGDP 01).

Reason: For the avoidance of doubt.

2. The land notated as “Campsite/Red Land” on drawing WGDP 01 shall only be used to accommodate a maximum of 15 caravans on any day of the calendar year.

Reason: To protect the visual amenity and character of the area and also help to safeguard the living conditions of nearby dwellings.

Policy: G1, G2, C6, C2, CN11, T9

3. No amplified music to be played or broadcast at any time on any day of the calendar year on the land notated “Campsite/Red Land” or land notated as “Rally Fields/Blue Land” on drawing WGDP 01.

Reason: To prevent noise and disturbance to nearby residents of the site.

Policy: G2

4. No unamplified music to be played after 2300 hours on any day of the calendar year on the land notated “Campsite/Red Land” or land notated as “Rally Fields/Blue Land” on drawing WGDP 01.

Reason: To prevent noise and disturbance to nearby residents of the site at unsociable hours.

Policy: G2

5. The use of the land for tented camping shall be strictly limited to that part of the site within the area notated as "Rally Fields/Blue Land" on drawing WGDP 01 and shall be used only in connection with the use of the area notated as "Rally Fields/Blue Land" as a whole. No caravans, motorhomes, campervans or other vehicle or structure adapted for human habitation which would fall within the definition of a caravan shall be stationed or parked on this land, which shall not be used for any camping other than for tented camping purposes between 19th March and the 30th September inclusive within any calendar year. That part of the application land within the area notated "Rally Fields/Blue Land" on drawing WGDP 01 shall be used only in connection with the use of the area notated as "Rally Fields/Blue Land" as a whole for a maximum of 20 tents on any day within the time period specified above, save for 10 days when a maximum of 100 tents and also a maximum of 40 tents on 14 additional days can be stationed within the period prescribed above. For the avoidance of any doubt, any day or part thereof when a tent or tents are stationed on the land or when activities incidental to camping are continuing (for example, the stationing of portaloos) is to be regarded as a day's use for the purposes of this condition.

Reason: To protect the visual amenity and character of the area and also help to safeguard the living conditions of nearby dwellings.

Policy: G1, G2, C6, C2, CN11, T9

6. Notwithstanding the provisions of any Class of the Schedule to Town and Country Planning General Permitted Development Order 1995 (or any order revoking and re-enacting that order with or without modification), there shall be no stationing of any tents on any part of the land other than on the area referred to as Rally Fields/Blue Land on drawing WGDP 01 or within the approved caravan site, and there shall be no stationing of caravans outside of the approved caravan site.

Reason: To protect the visual amenity and character of the area and also help to safeguard the living conditions of nearby dwellings.

Policy: G1, G2, C6, C2, CN11, T9

7. A maximum of 10 fire pits shall be permitted within the land notated as "RallyFields/Blue Land" on drawing WGDP 01 within the site and no other fires (excluding domestic barbecues and domestic garden/maintenance fires) shall be lit within any part of the site.

Reason: To prevent noise and disturbance to nearby residents of the

site.

Policy: G2

8. The applicant/site manager shall keep an up-to-date written record of all persons visiting the site for the purposes of recreation and the number of caravans and tents there on any day. The written record shall be maintained made available to the local planning authority for inspection at reasonable notice.

Reason: To support the other conditions.

9. There shall be no vehicular access and egress to and from the land used for tented camping from the southernmost vehicular access to the site (adjacent to Over the Hill).

Reason: To safeguard the living conditions of the occupants of Over the Hill.

Policy: G2

10. Within three months of the date of this decision, the details of any existing external lighting installed on the land and any additional external lighting proposed, shall be submitted to the Local Planning Authority. Details shall include the type of light appliance, the height and position of fitting, illumination levels, details of measures to reduce light pollution including any external cowls, louvres or other shields to be fitted to the lighting and a programme for implementation. Development shall be carried out in accordance with the approved details and programme of implementation and maintained as such thereafter. Other than those agreed, there shall be no further lighting of the site, unless otherwise agreed through a new planning permission.

Reason: In order to safeguard visual amenity.

Policy: G1, G2, C6, C2, CN11, T9

11. All landscaping shall be carried out in accordance with the Stonehenge Campsite Landscape Management Plan 2009-2014 (dated 10th October 2012, reference WFG/TA/10.10.11) and the Detailed Planting Proposals 2009-2014 (dated 16/11/2012, reference 390-11 Rev A) accompanying the planning application subject to the following amendments:

- a) Paragraphs 5.4, 5.5 and 5.6 are replaced as follows:

The first phase will be undertaken at some point between years 2

and 5 (where year 1 is 2009). The first phase will include removal of the 6 individual conifers along the eastern part of the boundary and 9 of the trees in the solid tree belt. This will open up gaps in the existing planting, allowing light in and allowing the establishment of broadleaf species.

In the longer term (that is, between years 6 and 10), the remaining conifers will be removed and the gaps will be planted with further broadleaf woodland planting.

- b) Paragraph 5.12 which refers to the woodland mix and the associated table is amended to exclude the use of non-native species of Scots Pine (*Pinus sylvestris*), Corsican Pine, Larch, Thuja or Evergreen Oak (*Quercus ilex*).
- c) The planting key on the Detailed Planting Proposals plan is amended to exclude the use of non-native species of Scots Pine (*Pinus sylvestris*), Corsican Pine, Larch, Thuja or Evergreen Oak (*Quercus ilex*).

The approved landscape management plan shall be implemented in full in accordance with the approved timetable.

Reason: To ensure adequate landscaping in order to safeguard visual amenity.

Policy: G1, G2, C6, C2, CN11, T9

- 12. The approved alarm system that has been fitted to the cesspit providing warning against overflowing and was agreed in writing by the local planning authority on the 21st October 2011 shall be retained and maintained.

Reason: To help prevent pollution to watercourses.

Policy: G2

- 13. The visibility splays of 4.5m x 75m across the site frontage measured from the centre line of the access adjacent to the northern site boundary shall be maintained permanently free obstruction above a height of 300mm.

Reason: In the interests of highway safety.

Policy: G2

27
b

S/2012/1555/Full - Stonehenge Campsite, Berwick St. James, Salisbury

Public participation:

Col. Stephen Bush spoke in objection to the application
Ms Elaine Lovelock spoke in support of the application
Mr William Grant spoke in support of the application
Cllr Neil MacDougall, on behalf of Berwick St James Parish Council, spoke in objection to the application

A site visit was held prior to the meeting which was attended by the members detailed in 27a above.

The Planning Officer introduced the report and drew attention to the late correspondence. The application sought to add 2 new washblocks located behind the existing facilities.

During the debate issues of visibility and the quality of the facilities were discussed.

It was

RESOLVED:

Planning Permission be GRANTED for the following reason:

The Council is required to give a summary of the reasons for this decision and its conditions, and a summary of the development plan policies and proposals relevant to the decision and its conditions. These are set out below:

The decision to grant planning permission has been taken on the grounds that the proposed development would not cause any significant harm to interests of acknowledged importance and having regard to the National Planning Policy Framework and the following policies in the South Wiltshire Core Strategy, namely policies:

G1 – General principles for development
G2 – General criteria for development
C2 – Development in the countryside
C6 – Special landscape area
CN11 – Views in and out of conservation areas
T9 – Touring caravans and tents
CN21 – Archaeology

In accordance with paragraph 187 of the National Planning Policy

Framework, Wiltshire Council has worked proactively to secure this development.

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 further development shall commence until:

- a) A written programme of archaeological investigation, which should include on-site work and off-site work such as the analysis, publishing and archiving of the results, has been submitted to and approved by the Local Planning Authority; and
- b) The approved programme of archaeological work has been carried out in accordance with the approved details.

Reason: To enable the recording of any matters of archaeological interest.

Policy: CN21

(3) No further development shall take place until a scheme for the automatic closing of the external doors to the shower blocks has been submitted to and agreed in writing by the Local Planning Authority. The development shall be completed in accordance with the agreed scheme and prior to the first use of the toilet/wash blocks.

Reason: In the interests of residential amenity.

Policy: G2

(4) No further development shall take place until an external lighting scheme for the toilet/wash blocks has been submitted to and approved in writing by the local planning authority. The scheme shall include the type of light appliance, the height and position of fitting, illumination levels and details of measures to reduce light pollution including any external cowls, or other shields to be fitted to the lighting. Development shall be carried out in accordance with the approved scheme and prior to the first use of the units. Other than those agreed, there shall be no further lighting.

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

Policy: G1, G2, C2, C6, CN11

(5) No further development shall commence until a scheme to provide a step free access from ground level to the toilet/wash blocks has been submitted to and approved in writing by the local planning authority. The approved scheme shall be completed prior to the first use of the portacabins.

Reason: To promote equality of opportunity for disabled persons

Policy: G2

(6) The native hedgerow to the north of the toilet/wash blocks shall be retained (as illustrated on drawing no: 390-11 revision A 'Detailed Planting Proposals 2009-2014 that was submitted as part of application S/2012/1777).

All 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 the protection of landscape character and local amenity.

Policy: G1, G2, C2, C6, CN11

(7) This development hereby permitted shall be carried out in accordance with the following approved plans:

Plan reference Stonehenge Campsite, Berwick St James, Planning Application 25.10.2012 block plan, received by this office 7th November 2012

Plan reference Wash room with showers West End, dated 06/11/2012, received by this office 7th November 2012

Plan reference Wash room with showers South Side, dated 06/11/2012, received by this office 7th November 2012

Plan reference Wash room with showers North Side, dated 06/11/2012, received by this office 7th November 2012

Plan reference Wash room with showers Floor Plan, dated 06/11/2012, received by this office 7th November 2012

Plan reference Wash room with showers East End, dated 06/11/2012,

received by this office 7th November 2012

Plan reference Stonehenge Campsite Section B-B West-East, received by this office 7th November 2012

Plan reference Stonehenge Campsite Section A-A South-North, received by this office 7th November 2012

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

INFORMATIVE: Environment Agency

Foul drainage Informative

The foul drainage must flow to a suitably designed treatment system. If a discharge is sought this will require an Environmental Permit or a variation to an existing Permit from the Environment Agency. The applicant should contact our Customer Contact centre on 03708 506 506 for further information, or visit www.environment-agency.gov.uk. A permit (or exemption) must be obtained from us before any discharge occurs and before any development commences.'

If they are proposing to discharge to the existing cess pit this does not require an Environmental Permit. The cess pit levels are already monitored with the use of a flow level alarm which enables emptying when necessary. As the cess pit has an alarm to notify when it needs to be emptied, there will be no issue with the increase in discharge to it.

Water Efficiency Informative

The development should include water efficient systems and fittings. These should include dual-flush toilets, water butts, water-saving taps, showers and baths, and appliances with the highest water efficiency rating (as a minimum). Greywater recycling and rainwater harvesting should be considered.

Applicants are advised to refer to the following for further guidance

<http://www.environment-agency.gov.uk/homeandleisure/beinggreen/118941.aspx>

<http://www.savewatersavemoney.co.uk>

Surface Water Drainage Informative

The applicant proposes to direct all surface water to soakaways. This is the preferred option, providing ground conditions permit and percolation tests demonstrate that they are appropriate.

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 dated September 1991 or CIRIA Report 156 "Infiltration Drainage, Manual of Good Practice".

Only clean, uncontaminated surface water should be discharged to soakaway.

Pollution Prevention During Construction Informative

Safeguards should be implemented during the construction phase to minimise the risks of pollution and detrimental effects to the water interests in and around the site. Such safeguards should cover the use of plant and machinery, oils/chemicals and materials; the use and routing of heavy plant and vehicles; the location and form of work and storage areas and compounds and the control and removal of spoil and waste.

We recommend the applicant refer to our Pollution Prevention Guidelines, which can be found at:

<http://www.environment-agency.gov.uk/business/topics/pollution/39083.aspx>

Water Management Informative

Should this proposal be granted planning permission, then in accordance with the waste hierarchy, we wish the applicant to consider reduction, reuse and recovery of waste in preference to off site incineration and disposal to landfill during site construction.

If any controlled waste is to be removed off site, then site operator must ensure a registered waste carrier is used to convey the waste material off site to a suitably authorised facility.

If the applicant requires more specific guidance if it available on our website www.environment-agency.gov.uk/subjects/waste/

INFORMATIVE:- Wessex Water

The site lies within a non sewered area of Wessex Water.

New water supply 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

Further information can be obtained from our New Connections Team 01225 526 222 for water supply.

INFORMATIVE:

To clarify the terms of this planning permission, the shower blocks shall have a maximum height of 2.637m, and there shall be no additions to, and or storage on, the roofs.

INFORMATIVE:

The applicant is requested to ensure that every effort is made to achieve safe and reasonable access to, and within, the shower blocks for disabled persons. This is in addition to the information required by condition no. 5.

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S/2013/0056/Full - Stonehenge Campsite, Berwick St. James, Salisbury

Public participation:

Mr Martin Gairdner spoke in objection to the application

Mrs Rosemary Gairdner spoke in objection to the application

Mr David Douse spoke in objection to the application

Ms Elaine Lovelock spoke in support of the application

Mr William Grant spoke in support of the application

A site visit was held prior to the meeting which was attended by the members detailed in 27a above.

The Planning Officer introduced the report and drew attention to the late correspondence. It was noted that onsite accommodation for rural workers is supported by policy.

During the debate issues were raised regarding the size of the caravans that would be permitted to use the pitches and it was agreed to defer the item until officers could consider ways of limiting the type and/or size of the wardens' caravans.

RESOVED

To defer the item to address the issues detailed above.

27
d

S/2012/1642/Full - Site to rear of Bell House, Berwick Lane, Steeple Langford, Salisbury

Public participation:

Ms Dawn Watson spoke in objection to the application

Mr T Willingham spoke in support of the application

Cllr Richard Coward, on behalf of Steeple Langford Parish Council, spoke in objection to the application

A site visit was held prior to the meeting which was attended by the following members:

Cllr R Britton

Cllr B Dalton

Cllr J Green

Cllr J Smale

Cllr F Westmoreland

Cllr I West

The Planning Officer introduced the report and asked members to note a slight amendment to the recommendation.

A debate ensued and members discussed the highways issues and asked that a condition be added to ensure that water was retained on site.

It was

RESOLVED:

Planning Permission be GRANTED for the following reason:

The Council is required to give a summary of the reasons for this decision and its conditions, and a summary of the development plan policies and proposals relevant to the decision and its conditions. These are set out below:

The decision to grant planning permission has been taken on the grounds that the proposed development would not cause any significant harm to interests of acknowledged importance and having regard to the National Planning Policy Framework and the following policies in the South Wiltshire Core Strategy, namely policies:

G1, G2 – General Development Criteria

C4, C5 – Development within the Cranborne Chase and West Wiltshire Downs Area of Outstanding Natural Beauty (AONB)

D2 - Design

H16 – Development within Housing Policy Boundary (HPB)

C12 – Protected species

CN11 – Views into and out of conservation areas

CN5 – Impact to setting of listed buildings

R2 - Public open space

In accordance with paragraph 187 of the National Planning Policy Framework, Wiltshire Council has worked proactively to secure this development.

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 and finishes to be used for the external walls and roofs of the buildings 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.

Policy: G1, G2, C4, C5, D2, H16, CN11, CN5

(3) The established boundary hedge and bank to the west boundary with Berwick Lane shall be retained and enhanced with additional hedge planting. No development shall take place until the species, planting sizes and densities of the additional hedge planting has been submitted to, and approved in writing by the Local Planning Authority.

All additional hedge planting shall be carried out in the first planting and seeding season following the completion of the development or first occupation of the building, 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.

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

Policy: G1, G2, C4, C5, D2, H16, CN11, CN5

(4) The established boundary hedge to the east boundary of the site with the adjacent fields shall be retained.

Reason: To ensure a satisfactory landscaped setting for the development in the interest of visual amenity and to minimise the effects on biodiversity, including those to the adjacent allotment site.

Policy: G1, G2, C4, C5, D2, H16, CN11, CN5, C12

(5) 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 by the local planning authority. The development 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.

Policy: G2

(6) The development hereby permitted shall not be first occupied until the first five metres of the access, measured from the edge of 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.

Policy: G2

(7) The development hereby permitted shall not be first occupied until the access, turning and parking area has been completed in accordance with the approved plans. The areas shall be maintained for those purposes at all times thereafter.

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

Policy: G2

(8) The access shall remain ungated.

Reason: In the interests of highway safety.

Policy: G2

(9) Before the development hereby permitted is first occupied the first floor windows in the south elevation shall be glazed with obscure glass only and the windows shall be permanently maintained with obscure glazing at all times thereafter.

Reason: In the interests of residential amenity and privacy.

Policy: G2 (General Development Guidance)

(10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking or re-enacting or amending that Order with or without modification), no windows, doors, rooflights or other form of openings other than those shown on the approved plans, shall be inserted in the development hereby permitted.

Reason: In the interests of residential amenity and privacy.

Policy: G2 (General Development Guidance)

(11) 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-E 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.

Policy: G1, G2, C4, C5, D2, H16, CN11, CN5

(12) The garage/workshop hereby permitted shall be used only for storage and maintenance of domestic vehicles incidental to the enjoyment of the associated dwelling and not for any trade, business or commercial purposes whatsoever.

Reason: In order that the Local Planning Authority may retain planning control over the use of the premises in the interests of regulating any alternative kinds of activities/operations which could have adverse effects upon highway safety.

Policy: G2 (General)

(13) 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), the garage/workshop hereby permitted shall not be converted to habitable accommodation.

Reason: To secure the retention of adequate parking provision, in the interests of highway safety.

Policy: G2

(14) This development hereby permitted shall be carried out in accordance with the following approved plans:

Plan reference Location and Site Plan, dated 08/04/2012, received by this office 12th November 2012

Plan reference Site Plan, dated 08/04/2012, received by this office 12th November 2012

Plan reference Ground & First Floor plans, sections, and roof plan dated 08/04/2012, received by this office 12th November 2012

Plan reference Elevations, dated 08/04/2012, received by this office 12th November 2012

Plan reference Plan indicating location of section plans, dated 08/04/2012, received by this office 12th November 2012

Plan reference North-South Sections, dated 08/04/2012, received by this office 12th November 2012

Plan reference East-West Sections, dated 08/04/2012, received by this officer 12th November 2012

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

INFORMATIVE:- Protected Species

Certain species are protected under Part 1 of the Wildlife and Countryside Act 1981 and others are protected under the Habitats Regulations. Some are protected under their own legislation.

The protected species legislation applies independently of planning permission and the work hereby granted consent does not override the statutory protection afforded to these species. The developer has legal obligations towards any protected species that may be present. Planning permission for development does not provide a defence against prosecution under protected species legislation.

It is expected that slow worms and possibly other reptiles may occur at the

application site in low numbers. These species are protected from being harmed under the Wildlife and Countryside Act 1981 (as amended) and planning permission does not provide a defence against prosecution under this act. In order to minimise the risk of these species being harmed, the developer is advised to clear vegetation during the winter, remove all waste arising from such clearance and maintain vegetation as short as possible. If these species are found during the works, the applicant is advised to stop work and follow advice from an independent ecologist or a Council Ecologist (01225 713875).

There is a low risk that bats and breeding birds may be disturbed or harmed during the demolition of the existing garage. The applicant should note that under the terms of the Wildlife and Countryside Act (1981) and the Habitats Regulations (2010) it is an offence to disturb or harm any protected species, or to damage or disturb their habitat or resting place. Planning permission does not override the statutory protection afforded to any such species. In the event that your proposals could potentially affect a protected species you should seek the advice of a suitably qualified and experienced ecologist (please see the IEEM Professional Directory - <http://www.ieem.net/members-directory>) and consider the need for a licence from Natural England prior to commencing works.

Please see Natural England's website for further information on protected species.

http://www.naturalengland.org.uk/Images/ProtectedSpeciesLists_tcm6-25123.pdf

INFORMATIVE:- Wessex Water

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 our New Connections Team by telephoning 01225 526 222 for Water Supply and 01225 526 333 for Waste Water.

S105a Public Sewers

On 1st October 2011, in accordance with the Water Industry (Schemes for

Adoption of Private Sewers) Regulations 2011, Wessex Water became responsible for the ownership and maintenance of thousands of kilometers of formerly private sewers and lateral drainage (section 105a sewers).

At the date of transfer many of these sewers are unrecorded on public sewer maps. These sewers can be located within property boundaries at the rear or side of any premises in addition to the existing public sewers shown on our record plans. They will commonly be affected by development proposals and we normally advise applicants to survey and plot these sewers on plans submitted for Planning or Building Regulations purposes.

More information relating to this transfer can be found on our website. It is important to undertake a full survey of the site and surrounding land to determine the local drainage arrangements and to contact our sewer protection team on 01225 526 333 at an early stage if you suspect that a section 105a sewer may be affected.

INFORMATIVE:- Material samples

Please note that the planning office does not have the facility to receive material samples. Please deliver materials for approval to site, with a notification to the planning office where they are to be found.

INFORMATIVE: - Party Wall Act

It is noted that the development hereby approved involves construction on or near a boundary with an adjoining property. The applicant is advised that this planning permission does not authorise any other consent which may be required from the adjoining landowner or any other person, or which may be required under any other enactment or obligation.

INFORMATIVE:- Access to the site

The applicant is advised that due to the narrow nature of the access road leading to the site, companies making deliveries or attending the site to carry out work should be advised to use smaller vehicles that can safely access the site.

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S/2012/1743/Full - 137 Netherhampton Road, Salisbury

Public participation:

Mr Nigel Lilley spoke in support of the application
Mr Gilbert spoke in support of the application
Mr Robinson spoke in support of the application

The Planning Officer introduced the report, which was recommended for refusal, and drew attention to a letter from the applicant contained in the late correspondence. Attention was drawn to how the application differed from the previous one and the concerns of the tree officer regarding an oak tree in the grounds of the adjacent property.

During the debate members discussed the proximity of the tree and the size of the plot.

It was

RESOLVED:

To approve the application subject to the applicant entering into a S106 agreement covering the following matters:

- (i) A financial contribution towards off-site recreation provision; and**
- (ii) A financial contribution towards off-site affordable housing provision,**

unless it is demonstrated to the satisfaction of the Area Development Manager that this would adversely impact on the viability of the development.

And subject to conditions being drafted by the Area Development Manager and agreed by the Division Member (Cllr Dalton) and the Chairman prior to the issuing of planning permission by the Area Development Manager under delegated powers.

27f S/2013/0020/Full - 37 York Road, Salisbury

This item was deferred to a future meeting.

27 S/2012/1809/Full - Rose Cottage, Berwick Road, Stapleford, Salisbury

9

Public participation:

Mr David Sharp spoke in support of the application

Mrs Tessa Bucknall spoke in support of the application

The Planning Officer introduced the report which was recommended for refusal. The Conservation Officer had raised concerns about the application

and these were detailed in the report.

During the debate members discussed the size of the extension and the conservation officers concerns.

It was

RESOLVED:

To approve for the following reason:

The Council is required to give a summary of the reasons for this decision and its conditions, and a summary of the development plan policies and proposals relevant to the decision and its conditions. These are set out below:

The decision to grant planning permission has been taken on the grounds that the proposed development would not cause any significant harm to interests of acknowledged importance and having regard to the National Planning Policy Framework and the following policies in the South Wiltshire Core Strategy, namely Policies G2, D3, H16, C6, CN8 and CN11. In accordance with paragraph 187 of the National Planning Policy Framework, Wiltshire Council has worked proactively to secure this development.

and 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 section 51 (1)of the Planning and Compulsory Purchase Act 2004 (0004 AMENDED)

1. Before development is commenced, details of external materials to be used in the construction of the external surfaces of the extension hereby permitted shall have been submitted to and approved in writing by the Local Planning Authority. Development shall be in accordance with the details agreed.

Reason: To ensure that the external appearance of the proposed development will relate appropriately to that of the existing building- Policy D3

2. This development shall be in accordance with the submitted drawings
 - 211059-04 rev A, dated 04/07/12 and received to this office on 19/12/12

- 211059-05 rev B, dated 04/07/12 and received to this office on 19/12/12
- 211059-01 rev B, dated 04/07/12 and received to this office on 19/12/12
- 211059-06, dated 04/07/12 and received to this office on 19/12/12

Reason: For the avoidance of doubt.

4. No development shall commence on site until the hedge along the frontage of the site has been enclosed by protective fencing, in accordance with British Standard 5837 (2005): Trees in Relation to Construction. Before the fence is erected its type and position shall be approved by the Local Planning Authority and after it has been erected, it shall be maintained for the duration of the works and no vehicle, plant, temporary building or materials, including raising and or lowering of ground levels, shall be allowed within the protected areas(s).

Reason: To enable the Local Planning Authority to ensure the protection of beech hedge on the site in the interests of visual amenity.

INFORMATIVE:

Regarding condition No. 2, the applicant is advised that the choice of external materials to be used in the development should respect those used in the front and side elevations of the original cottage, this potentially including the existing ornamental stonework. It will be necessary for the applicant to submit additional elevation drawings with the external material details where ornamental stonework is proposed in addition to conventional bricks.

It should also be noted that we cannot accept materials samples at the Bourne Hill Offices, and material samples will be checked on site.

28 Urgent Items

There were no urgent items

Late Correspondence

(Duration of meeting: 6.00 - 9.10 pm)

The Officer who has produced these minutes is Pam Denton, of Democratic Services,
direct line (01225) 718371, e-mail pam.denton@wiltshire.gov.uk

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

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Wiltshire Council

Southern Area Planning Committee

18 April 2013

**HIGHWAYS ACT 1980 – SECTION 119 AND WILDLIFE AND
COUNTRYSIDE ACT 1981 – SECTION 53
THE WILTSHIRE COUNCIL (WEST TISBURY NO. 21) PUBLIC PATH DIVERSION
ORDER 2012 AND DEFINITIVE MAP AND STATEMENT MODIFICATION ORDER 2012**

Purpose of Report

1. To:
 - (i) Consider objections received to the making of “The Wiltshire Council (West Tisbury No. 21) Public Path Diversion Order 2012 and Definitive Map and Statement Modification Order 2012”, under Section 119 of the Highways Act 1980.
 - (ii) Recommend that the Order be forwarded to the Secretary of State for the Environment, Food and Rural Affairs for confirmation.

Description of Route

2. Bridleway No. 21 is located at Tuckingmill, in the parish of West Tisbury, as shown on the location plan attached at **Appendix 1**. The Public Path Diversion Order is attached at **Appendix 2**, with the order map which shows the definitive line of Bridleway No. 21 West Tisbury and the proposed diversion route.
3. The definitive line of the bridleway junctions with Hatch Lane and leads south-west, directly alongside the property Quarry House, to its junction with Bridleway No.15 West Tisbury, at a field gate, having no recorded width.
4. The proposed diversion route commences at the same point off Hatch Lane and leads generally south-west, parallel to the definitive route, through an area formerly part of the Wiltshire Council Highways depot, (now in the ownership of Quarry House), having a recorded width of 4 metres (which will comprise a 2.5 metre wide compacted surface and a 1.5 metre wide grass verge).
5. The proposed diversion extinguishes approximately 122 metres of bridleway and creates approximately 136 metres of bridleway.

Background

6. Wiltshire Council received an application, dated 14 December 2011, from Mr. and Mrs. Watson of Quarry House, Tucking Mill, West Tisbury, to divert Bridleway No. 21 West Tisbury, under Section 119 of the Highways Act 1980.
7. The bridleway presently passes directly alongside the property Quarry House. It is proposed to divert the bridleway in order to improve the privacy and security of the property. The applicants are also concerned that the present route of the bridleway forms the vehicular access to properties at its northern end and is also used by bin lorries, delivery vehicles, etc., to access the properties. The proposed alternative route would remove the bridleway from the track presently used by vehicles. Additionally, the applicants consider that the proposed diversion route would benefit the public as path users would feel less intrusive using a route located further away from Quarry House and by creating a more open and enjoyable route, with improved views of the countryside, where the present route is enclosed by the wall of the house to the south-west and a hedge to the north-east.
8. Prior to the application to permanently divert the bridleway, the owners of Quarry House secured a temporary diversion of Bridleway No. 21 West Tisbury, under Section 14(1) of the Traffic Regulation Act 1984, in order to allow repairs to be carried out to the side of the property. The owners provided a temporary diversion route to the north-west of the existing route, onto which it is proposed to permanently divert the bridleway.
9. Wiltshire Council carried out an initial consultation regarding the Diversion Order proposals on 25 January 2012, with a closing date for all representations and objections to be received, in writing, by 6 March 2012. The consultation included the landowner, statutory undertakers, statutory consultees, users groups and other interested parties, including the Wiltshire Council Member for Tisbury and West Tisbury Parish Council. Eight representations in support of the diversion were received and four objections to the proposals.
10. Officers considered the objections received against the legal tests for making a Public Path Diversion Order, under Section 119 of the Highways Act 1980, in a decision report dated 5 September 2012 (attached at **Appendix 3**). It was considered that despite the objections received, the legal tests for diversion were met and a Public Path Diversion Order to divert Bridleway No. 21 West Tisbury was made on 13 November 2012.
11. 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 comments of support were received and one objection letter was received from R A Hale, as set out below (please see Mr Hale's full correspondence attached at **Appendix 4**):
12. Lady Gingell e-mailed on 17 November 2012, as follows:

*"Thank you for your letter which arrived this morning.
My only comment is "Hooray!" "*

13. Mr. Roger Little e-mailed on 26 November 2012, as follows:

“Thank you for your letter of 14 November 2012.

I know that we have corresponded on this topic before but I wanted just to confirm I fully support the Public Path Diversion Order. I look forward to the confirmation of the order in due course”.

14. R A Hale wrote on 20 December 2012, as follows:

“The bridleway for which a diversion order has been applied for was recently temporarily closed for the installation of underground services. During this period a temporary alternative pathway was put in place to enable continued use of the right of way. The diversion application attempts to make this temporary diversion permanent.

The bridleway provides pedestrian and equine access to a path to West Hatch which is heavily used at times.

Objection 1 – The proposed diversion is not equivalent to the existing bridleway

The existing bridleway is used for access to dwellings and agricultural access to fields. As such it is maintained in a usable condition (see Annex 1). The proposed diversion is a temporary construction (as stated in “Background” above) which was not intended as a permanent arrangement and is already becoming overgrown (see Annex 2).

The diversion application makes no provision for the maintenance of the proposed diversion in an equivalent state to the existing bridleway, either in the short term or over time. It will soon degrade into a track over a field.

The bridleway is used by horses and as the existing temporary surface degrades and eventually disappears altogether the route will become unusable to pedestrians. As a local farmer has recently barred alternative permissive access to the West Hatch path increased pedestrian usage will be experienced along the bridleway.

Objection 2 – the diverted route will be blocked by hippies/travellers

As a result of the underground services work the council work/storage area adjacent to the proposed diversion now incorporates the proposed diversion. The council work area has been occupied by hippies/travellers in the past and in order to prevent this, the council placed large concrete blocks behind the gateway from the road to prevent access.

These blocks have now been removed and donated to a property owner to mark out a parking area (see Annex 3) – leaving easy access to the council work area through the gateway again.

A hippy caravan has taken up residence in a lay-by outside the council work area access gate (see Annex 4). More hippies may arrive in the spring to move into the council work area. If travellers move in, their dogs may render the proposed diversion inaccessible.

Objection 3 – the diversion is an opportunistic attempt to raise property values

It is apparent, for the reasons in the previous paragraphs, that the proposed diversion is not a viable alternative to the existing bridleway. The proposed diversion would appear to be an opportunistic attempt to use a temporary diversion as a permanent way to increase property values.

There is no public benefit from this diversion, indeed just the opposite is true, and therefore I consider the diversion request should be refused.”

15. R A Hale wrote further to reinforce the objections on 15 January 2013:

“Objection 1 – the proposed diversion is not equivalent to the existing bridleway

Your letter (10 January 2013) states that the diverted path will be reconstructed to council requirements (which addresses my objection to the existing track), but does not address the issue of future maintenance adequacy.

1. *You state that “The ongoing maintenance of the surface of the bridleway is the responsibility of the Wiltshire Council, working in conjunction with the landowner”. It also refers to the problems at the southern end of the existing bridleway: “uneven surface of the present definitive route” and “damage caused by the presence of a badger sett”. If the maintenance arrangements were adequate there would be no existing issues with the surface of the existing bridleway, therefore they are unlikely to work for the diversion.*
2. *The maintenance of the existing bridleway is primarily the responsibility of its owner and vehicular users while the ongoing maintenance of the proposed diversion is (according to your letter) the responsibility of the Council. This seems to me to be a transfer of cost to the public purse, surely if the diversion is granted it should be conditional on the maintenance of the diverted route by the users/owners of the existing route – as they will not use the diversion they have little interest in maintaining it.*

As a matter of interest, there is no damage to the existing bridleway from the badger sett (which is off the bridleway), just some spoil from the excavations which could easily be removed.

Objection 2 – the diverted route will be blocked by hippies/travellers

Page 5 of the decision report (please see **Appendix 3**) contains a diversion plan which indicates the previously council owner land inside an earth berm. Part of this berm (between the ex-council area and Quarry House) was removed during the works for which the bridleway was temporarily diverted, providing access to additional flat areas which could be used for travellers vehicles – making it an even more attractive site.

Anyone who reads the papers or listens to the news cannot but be aware of the problems and timescales involved in moving travellers on. Your response to this issue is therefore completely inadequate.

Objection 3 – the diversion is an opportunistic attempt to raise property values

The decision report lists three public benefits to the diversion; these are set out below with my comments:

1. Users of the bridleway would feel less invasive

I have used the bridleway for 20 years and have neither felt invasive or met anybody else who has. There are only 2 or 3 small Quarry House ground level windows adjacent to the existing bridleway.

2. Improved safety for path users from increased traffic using the existing route...

In all the time I have used the Bridleway I have never encountered moving traffic. In any event, vehicles using the bridleway have to go slowly because of the bridleway width.

3. Allowing the public more and attractive views.

Of a field which often has a huge manure pile on it and a few hills on the horizon. The views begin at the Southern junction of the existing and diverted bridleways.

Frankly, I regard the supposed benefits as facetious and remain of the view that this is simply an opportunistic attempt by the new owner, who presumably purchased the property in full knowledge of the bridleway, to increase the value of the property. I think this would set a very bad precedent which would result in a rash of other diversion requests.

Quite simply, there is no public benefit to the diversion.

Additional Comments

Security of Quarry House: I doubt that the burglaries at the property were by casual passers-by as the property is off the road. The proposed diversion would make the property more secluded and therefore an easier target.

Other objections: You state that there are no other objections to the order, there are several pages of objections in the decision report.”

16. Due to the objection received, the Order now falls to be considered by the Southern Area Planning Committee, whose Members should consider the points of objection against the legal tests for diversion as set out under Section 119 of the Highways Act 1980, in order to decide whether or not Wiltshire Council continues to support the making of the Order.
17. 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 diversion are no longer met. The making of a Public Path Diversion Order is a discretionary duty for the Council, rather than a statutory duty; therefore, the Order may be withdrawn at any time.
18. 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.
19. Where the Authority does not actively support the Public Path Diversion Order, i.e. where all the legal tests for diversion are met but the Order is only in the interests of the landowner, it may forward the Order to the Secretary of State for determination, but choose to take a neutral stance with regard to the Order.

Main Considerations for the Council

20. The Diversion Order has been made under Section 119 of the Highways Act 1980, which states:

“119. Diversion of footpaths, bridleways and restricted byways

- (1) *Where it appears to a council as respects a footpath, bridleway or restricted byway in their area (other than one that is a trunk road or a special road) that, in the interests of the owner, lessee or occupier of land crossed by the path or way or of the public, it is expedient that the line of the path or way, or part of that line, should be diverted (whether on to land of the same or of another owner, lessee or occupier), the council may, subject to subsection (2) below, by order made by them and submitted to and confirmed by the Secretary of State, or confirmed as an unopposed order,-*
 - (a) *create, as from such date as may be specified in the order, any such new footpath, bridleway or restricted byway as appears to the council requisite for effecting the diversion; and*
 - (b) *extinguish, as from such date as may be specified in the order or determined in accordance with the provisions of subsection (3) below, the public right of way over so much of the path or way as appears to the council requisite as aforesaid.*

An order under this section is referred to in this Act as a ‘public path diversion order’.
- (2) *A public path diversion order shall not alter a point of termination of the path or way-*
 - (a) *if that point is not on a highway; or*

- (b) (where it is on a highway) otherwise than to another point which is on the same highway, or a highway connected with it, and which is substantially as convenient to the public.*
- (3) Where it appears to the council that work requires to be done to bring the new site of the footpath, bridleway or restricted byway into a fit condition for use by the public, the council shall-*
- (a) specify a date under subsection (1)(a) above, and*
 - (b) provide that so much of the order as extinguishes (in accordance with subsection (1)(b) above) a public right of way is not to come into force until the local highway authority for the new path or way certify that the work has been carried out.*
- (4) A right of way created by a public path diversion order may be either unconditional or (whether or not the right of way extinguished by the order was subject to limitations or conditions of any description) subject to such limitations or conditions as may be specified in the order.*
- (5) Before determining to make a public path diversion order on the representations of an owner, lessee or occupier of land crossed by the path or way, the council may require him to enter into an agreement with them to defray, or to make such contribution as may be specified in the agreement towards,-*
- (a) any compensation which may become payable under section 28 above as applied by section 121(2) below; or*
 - (b) where the council are the highway authority for the path or way in question, any expenses which they may incur in bringing the new site of the path or way into fit condition for use for the public; or*
 - (c) where the council are not the highway authority, any expenses which may become recoverable from them by the highway authority under the provisions of section 27(2) above as applied by subsection (9) below.*
- (6) The Secretary of State shall not confirm a public path diversion 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 the diversion to be effected by it is expedient as mentioned in subsection (1) above, and further that the path or way will not be substantially less convenient to the public in consequence of the diversion and that it is expedient to confirm the order having regard to the effect which-*
- (a) the diversion would have on public enjoyment of the path or way as a whole;*
 - (b) the coming into operation of the order would have as respects other land served by the existing public right of way; and*
 - (c) any new public right of way created by the order would have as respects the land over which the right is so created and any land held with it;*
- so, however, that for the purposes of paragraph (b) and (c) above the Secretary of State, or as the case may be, the council shall take into account the provisions as to compensation referred to in subsection 5(a) above.*

- (6A) *The considerations to which-*
(a) *the Secretary of State is to have regard in determining whether or not to confirm a public path diversion order, and*
(b) *a council are to have regard in determining whether or not to confirm such an order as an unopposed order include any material provision of a rights of way improvement plan prepared by any local highway authority whose area includes land over which the order would create or extinguish a public right of way.”*

21. Section 119 of the Highways Act 1980 allows the Highway Authority to divert a footpath, bridleway or restricted byway where they consider it expedient to do so in the interests of the owner, lessee or occupier of the land and/or the public. This particular Order has been made in the interests of the landowner to improve the privacy and security of Quarry House.
22. Additionally, the following public benefits of the diversion have been identified:
- (i) Users of the bridleway would feel less invasive;
 - (ii) Improved safety from increased traffic using the definitive route, i.e. two cars at Quarry House, one car at Stoneleigh and also delivery vehicles and recycling and bin lorries, the diversion route is safer as it will not be use by traffic and
 - (iii) Allowing the public to enjoy more open and attractive views, where the definitive route is more confined.
23. Where a Diversion Order is made in the interests of the landowner, it is not necessary to identify public benefits at the stage of making the Order; however, officers consider that there are public benefits to the Diversion Order, where the objector concludes that there are no public benefits to the diversion.
24. A diversion must not alter the termination points of a path where these are not on a highway and where they are located on a highway they must not be altered other than to another point on the same highway, or a highway connected with it, and which is substantially as convenient to the public. Points A and B remain unaltered (please see order plan attached at **Appendix 2**) and are therefore as convenient to the public.
25. The diversion satisfies both the above-mentioned legal tests for the making of an Order; however, at the confirmation stage there are a number of additional legal tests to be considered:
- 1) It must be expedient to confirm the Order in the interests of the landowner, and/or the public, (as seen above).
 - 2) The diverted route must not be substantially less convenient to the public.
 - 3) It must be expedient to confirm the Order having regard to the effect which:

- (i) The diversion would have on public enjoyment of the path or way as a whole;
 - (ii) The coming into operation of the Order would have as respects other land served by the existing public right of way;
 - (iii) Any new public right of way created by the Order would have as respects the land over which the right is so created and any land held with it.
26. At 3) (ii) and (iii) above, the land over which the existing bridleway passes and the land over which it is proposed to place the newly created bridleway, are in the ownership of the applicants, Mr. and Mrs. Watson, who have given written consent to the diversion proposals and no compensation claims are anticipated.
27. At 2) above, the diversion of the bridleway deletes approximately 122 metres of bridleway and creates approximately 136 metres of bridleway, which is not substantially less convenient to the public. However, the objector is concerned that the ongoing maintenance of the route will not be sufficient for it to be kept to a suitable standard for public use and it will therefore become less convenient for public use than the present definitive line, i.e. the proposed diversion is not equivalent to the existing route.
28. When considering the public enjoyment of the path or way as a whole, the diverted bridleway will have a recorded width of 4 metres, open and available for public use, where no width is presently recorded within the definitive map and statement for Bridleway No. 21 West Tisbury. There are no additional limitations or conditions on use of the path as a result of the diversion and the new section of bridleway is not enclosed on its northern side, which opens up views of the surrounding countryside, where the present definitive line is enclosed by the wall of the house and a hedge. The objector does not agree that views from the proposed diversion route are improved and considers that there is no positive effect on public enjoyment of the path or way as a whole, as a result of the diversion.
29. Under sub-section 6A of Section 119 of the Highways Act 1980, the Council must also have regard to any material provision of any Rights of Way Improvement Plan – the Wiltshire Council Rights of Way Improvement Plan 2008-2012 (ROWIP). The replacement ROWIP, which will cover the period from 2013 – 2018 is currently being prepared. The provisions set out in paragraph 30 below will be carried forward.
30. The ROWIP recognises the Council's duty to have regard to the Disability Discrimination Act 1995 (now replaced by the Equalities Act 2010) and to consider the least restrictive option for public use and includes the following aims:
- *Increase access to the countryside for buggies, older people, people with mobility problems and other impairments (p.43 Improvements 1, 2 & 3) and to*
 - *Increase access to the countryside for people who are blind and partially sighted (p.44 Improvements 4 and 5):*

The proposed diversion route will have a recorded width of 4 metres open and available for public use, where no width is recorded on the present definitive line. There are no additional limitations or conditions to public use of the path as a result of the diversion and the diversion route will have a level surface, suitable for use with buggies, by older people, people with mobility problems and other impairments and the blind and partially sighted.

- *The promotion and development of the public rights of way network, enabling pedestrians, cyclists and horse riders to avoid heavy or intrusive traffic (p.46 improvement 3).*

The present route of the bridleway also forms the vehicular access to two properties and the route is also used by bin lorries and delivery vehicles, etc., to access these properties. The proposed diversion route is not shared with vehicles and officers view this as an improvement as it reduces the risk of conflict between different types of users.

Comments on the Objections

The proposed diversion is not equivalent to the existing bridleway:

31. The present bridleway is used as a vehicular access to two properties, Stoneleigh and Quarry House. Further south of Quarry House, the private agricultural vehicular access to the field was removed last year and, as a result, if the bridleway is maintained in its present position, there will be no requirement for the landowner to maintain the surface of the bridleway to a standard suitable for use by vehicles beyond Quarry House. Additionally, the Wiltshire Council ROWIP includes an aim to promote and develop the public rights of way network, enabling pedestrians, cyclists and horse riders to avoid intrusive traffic. The diversion meets this aim as the proposed diversion route is not shared with vehicles.
32. If the Diversion Order is successful, the diverted bridleway will have a 2.5 metre wide compacted surface and a 1.5 metre wide grass verge area, within the recorded width of 4 metres, giving all users, i.e. walkers, horse riders and cyclists, a choice of surface. This has been agreed with Wiltshire Bridleways Association who preferred to see a grass surface on the diversion route, but also addresses comments received from walkers at the initial consultation, who preferred to use the level compacted surface of the new route, in preference to the uneven surface of the present definitive route. The definitive route also has damage caused by the presence of a badger sett at its southern end.
33. The proposed diversion route is not the definitive route until the confirmation of the Public Path Diversion Order. Therefore, at present, there is no obligation upon the landowner to open the route or to maintain the route as such. Indeed, the landowner has confirmed that no maintenance work has been undertaken on the proposed route as they are awaiting the outcome of the Diversion Order, before undertaking works which may prove unnecessary if the Diversion Order is not confirmed. The former Council highway depot area is now in the full ownership of Quarry House and it is the intention of the landowner to tidy up this area, making it a pleasant area for path users.

34. If the Diversion Order is confirmed, the landowner will need to undertake works to provide the correct surface, i.e. a 2.5 metre compacted surface with a 1.5 metre grass verge area. The path cannot be recorded on the definitive map until Wiltshire Council have certified that this work has been carried out and the path is available to a suitable standard for use by walkers, horse riders and cyclists, as a permanent route rather than a temporary route.
35. The ongoing maintenance of the surface of the bridleway is the responsibility of Wiltshire Council, working with the landowner. The definitive line of the bridleway is a public maintenance responsibility, to maintain the surface to a standard suitable for use as a bridleway (not to a standard for use by vehicles) and there is no transfer of maintenance costs to the public purse as a result of the diversion, as suggested by the objector, as the maintenance responsibility remains the same.

The diversion route will be blocked by travellers

36. The whole of the former Council highway depot area is now in the private ownership of Quarry House and the landowners have confirmed that they will be undertaking works to tidy this area, which should prove to be a deterrent to travellers. The landowner acknowledged that there was a previous incident with travellers entering the former highways depot in the past; however, now that the land is in their ownership they would act swiftly to remove travellers from their land. However, they are not anticipating that this will be a problem. Any action by travellers, or any other party, to render the route of the new bridleway inaccessible would be treated as an obstruction of the highway by Wiltshire Council.

The diversion is an opportunistic attempt to raise property values

37. Wiltshire Council was first approached by the landowners regarding the possibility of placing a temporary diversion on Bridleway No. 21 West Tisbury, whilst works were carried out to the west elevation of Quarry House. A temporary diversion was granted by Wiltshire Council in the interests of health and safety whilst works were being carried out and a suitable temporary diversion route was provided for path users. This procedure to temporarily divert the path was carried out correctly according to the legislation under Section 14(1) of the Road Traffic Regulation Act 1984.
38. An application to divert Bridleway No. 21 West Tisbury permanently was submitted to the Wiltshire Council Rights of Way Department in December 2011. This application was correctly made under Section 119 of the Highways Act 1980 and Wiltshire Council continued to consider the application under this legislation. Following the expiry of the temporary diversion, the definitive line of Bridleway No. 21 West Tisbury was made available for use by the public, in addition to the temporary diversion route.
39. The cost of making and advertising a Public Path Diversion Order is met by the landowner/applicant and not from the public purse. Costs to landowners can vary, but are in the region of £2,000 - £3,000. Costs to the Council are only incurred where the Order is forwarded to the Secretary of State for determination, please see Financial Implications below).

40. The temporary route will not be certified by Wiltshire Council as the definitive route until we are satisfied that it has been provided to a suitable standard for use by the public, so there are safeguards in place to ensure that the route is not of a temporary nature, but a permanent nature and it is acknowledged that there are works required on the proposed diversion route to achieve this.

Environmental Impact of the Recommendation

41. The County Ecologist was consulted on the diversion proposals and no comments regarding the environmental impact of the diversion have been received.

Risk Assessment

42. The present definitive route of the bridleway is used by vehicles accessing properties at the northern end of the track. The proposed diversion route is not used by vehicles and removes this potential conflict between different types of user.

Financial Implications

43. The applicants have 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, the confirmation of the Order and the certification of the route, in one local newspaper.
44. The applicants have also agreed, in writing, to pay any expenses which may be incurred in bringing the new footpath into a fit condition for use by the public, as required by the Council.
45. If the Order is withdrawn by Wiltshire Council, the Order is not confirmed and there are no additional costs to 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.
46. If the Order is forwarded to the Secretary of State for decision, the Order will be determined by written representations, local 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.
47. Where the Authority takes a neutral stance with regard to the Order, the costs to the Council in participating in a hearing or inquiry are reduced, as legal representation is reduced or may not be required.

Options Considered

48. Having considered the objections received against the legal tests for diversion, as set out under Section 119 of the Highways Act 1980, there are three 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 Diversion 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 Diversion Order, the Order should be forwarded to the Secretary of State for determination, with a recommendation from Wiltshire Council that the Order be confirmed without modification, or confirmed with modification.
 - (iii) Where Members of the Committee do not actively support the making of the Order, i.e. where all the legal tests for diversion are met but the Order is only in the interests of the landowner, it may be forwarded to the Secretary of State for determination, but the Council may choose to take a neutral stance with regard to the Order.

Reasons for Recommendation

49. Despite the objections received it is considered, for the reasons given within the report, that the making of "The Wiltshire Council (West Tisbury No. 21) Public Path Diversion Order 2012, and Definitive Map and Statement Modification Order 2012", continues to meet the legal tests for diversion under Section 119 of the Highways Act 1980. Additionally, the legal tests for confirmation of a Public Path Diversion Order, as set out under Section 119 of the Highways Act 1980, are met.

Recommendation

50. That "The Wiltshire Council (West Tisbury No. 21) Public Path Diversion Order 2012 and Definitive Map and Statement Modification Order 2012", be forwarded to the Secretary of State for determination, with a recommendation from Wiltshire Council that the order be confirmed without modification.

MARK SMITH

Service Director – Neighbourhood Services

Report Author:

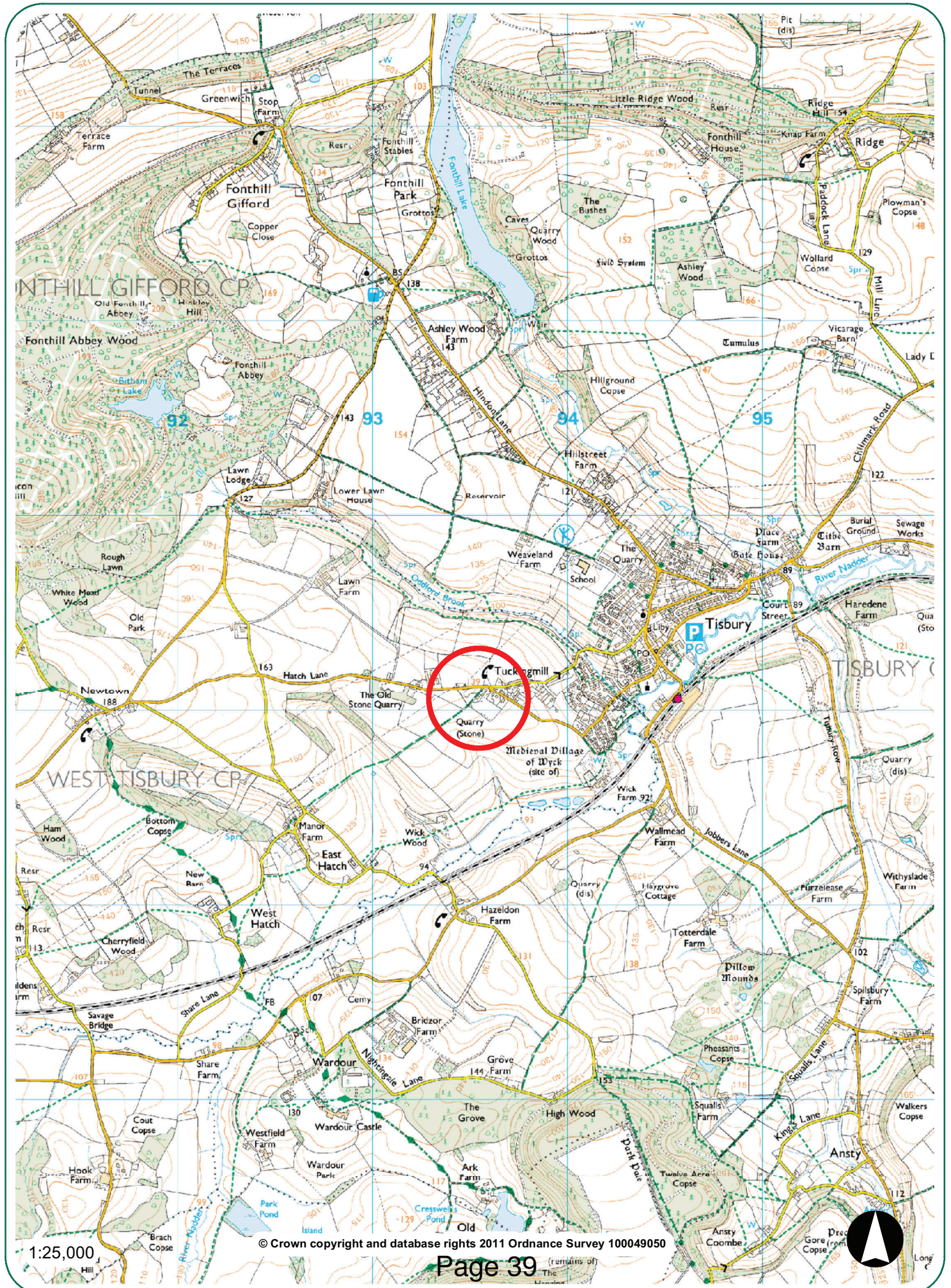
Janice Green

Rights of Way Officer

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

None

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**APPENDIX 2: THE WILTSHIRE COUNCIL (WEST TISBURY NO.21) PUBLIC PATH
DIVERSION ORDER 2012 AND DEFINITIVE MAP AND STATEMENT
MODIFICATION ORDER 2012**

PUBLIC PATH DIVERSION AND DEFINITIVE MAP AND STATEMENT MODIFICATION
ORDER
HIGHWAYS ACT 1980
WILDLIFE AND COUNTRYSIDE ACT 1981
THE WILTSHIRE COUNCIL (WEST TISBURY No.21) PUBLIC PATH DIVERSION ORDER
2012 AND DEFINITIVE MAP AND STATEMENT MODIFICATION ORDER 2012

This order is made by Wiltshire Council ("the authority") under section 119 of the Highways Act 1980 ("the 1980 Act") because it appears to the authority that in the interests of the owner of the land crossed by the bridleway described in paragraph 1 of this order it is expedient that the line of the path should be diverted.

This order is also made under section 53A(2) of the Wildlife and Countryside Act 1981 ("the 1981 Act") because it appears to the authority that the Mere and Tisbury Rural District Council Area definitive map and statement dated 1952 require modification in consequence of the occurrence of an event specified in section 53(a)(i) of the 1981 Act, namely, the diversion (as authorised by this order) of a highway shown or required to be shown in the map and statement.

The owners of the land have agreed to defray any compensation which becomes payable in consequence of the coming into force of this order and any expenses which are incurred in bringing the new site of the path into a fit condition for use by the public.

West Tisbury Parish Council have been consulted as required by section 120(2) of the 1980 Act;

BY THIS ORDER:

1. The public right of way over the land situate at Tucking Mill, West Tisbury and shown by a bold continuous line on the map contained in this order and described in Part I of the Schedule to this order shall be stopped up after 28 days from the date of confirmation of this order, and thereupon the Mere and Tisbury Rural District Council Area definitive map dated 1952 shall be modified by deleting from it that public right of way.
2. Notwithstanding this order BT Openreach shall have the following rights over the land referred to in paragraph 1 namely:-

Where immediately before the date on which the bridleway is diverted there is apparatus under, in, on, over, along or across it belonging to BT Openreach for the purpose of carrying on their undertaking, the undertakers shall continue to have the same rights in respect of the apparatus as they then had.

3. There shall at the end of 28 days from the date of confirmation of this order be a public bridleway over the land situate at Tucking Mill, West Tisbury described in Part 2 of the Schedule and shown by a bold broken line with cross bars in the intervals on the map contained in this order, and thereupon the Mere and Tisbury Rural District Council Area definitive map dated 1952 shall be modified by adding that path to it.

4. The Mere and Tisbury Rural District Council Area definitive statement dated 1952 shall be modified as described in Part 3 of the Schedule to this order.

SCHEDULE

PART 1

DESCRIPTION OF SITE OF EXISTING PATH OR WAY

That length of bridleway as shown on the attached plan by a bold continuous line leading from point A at OS Grid Reference ST 9348-2902, in a north-easterly direction for approximately 125 metres, to point B at OS Grid Reference ST 9356-2912.

PART 2

DESCRIPTION OF SITE OF NEW PATH OR WAY

That length of bridleway as shown on the attached plan by a bold broken line with cross bars in the intervals leading from point A at OS Grid Reference ST 9348-2902, in a northerly direction for approximately 8 metres, before leading north-east for approximately 42 metres, continuing north for approximately 15 metres and then leading generally east-north-east for approximately 35 metres, before continuing generally north-east for approximately 35 metres to point B at OS Grid Reference ST 9356-2912, having a width of 4 metres.

PART 3

MODIFICATION OF DEFINITIVE STATEMENT

Variation of particulars of path or way

| <u>Parish</u> | <u>Path No.</u> | <u>Modified Statement to Read</u> | <u>Modified Under Section 53(3) as Specified</u> |
|---------------|-----------------|--|--|
| West Tisbury | 21 | BRIDLEWAY. From the north-east end of Bridleway No.15, at OS Grid Reference ST 9348-2902, leading in a northerly direction for approximately 8 metres, before leading north-east for approximately 42 metres, continuing north for approximately 15 metres and then leading generally east-north-east for approximately 35 metres, before | 53(3)(a)(i) |

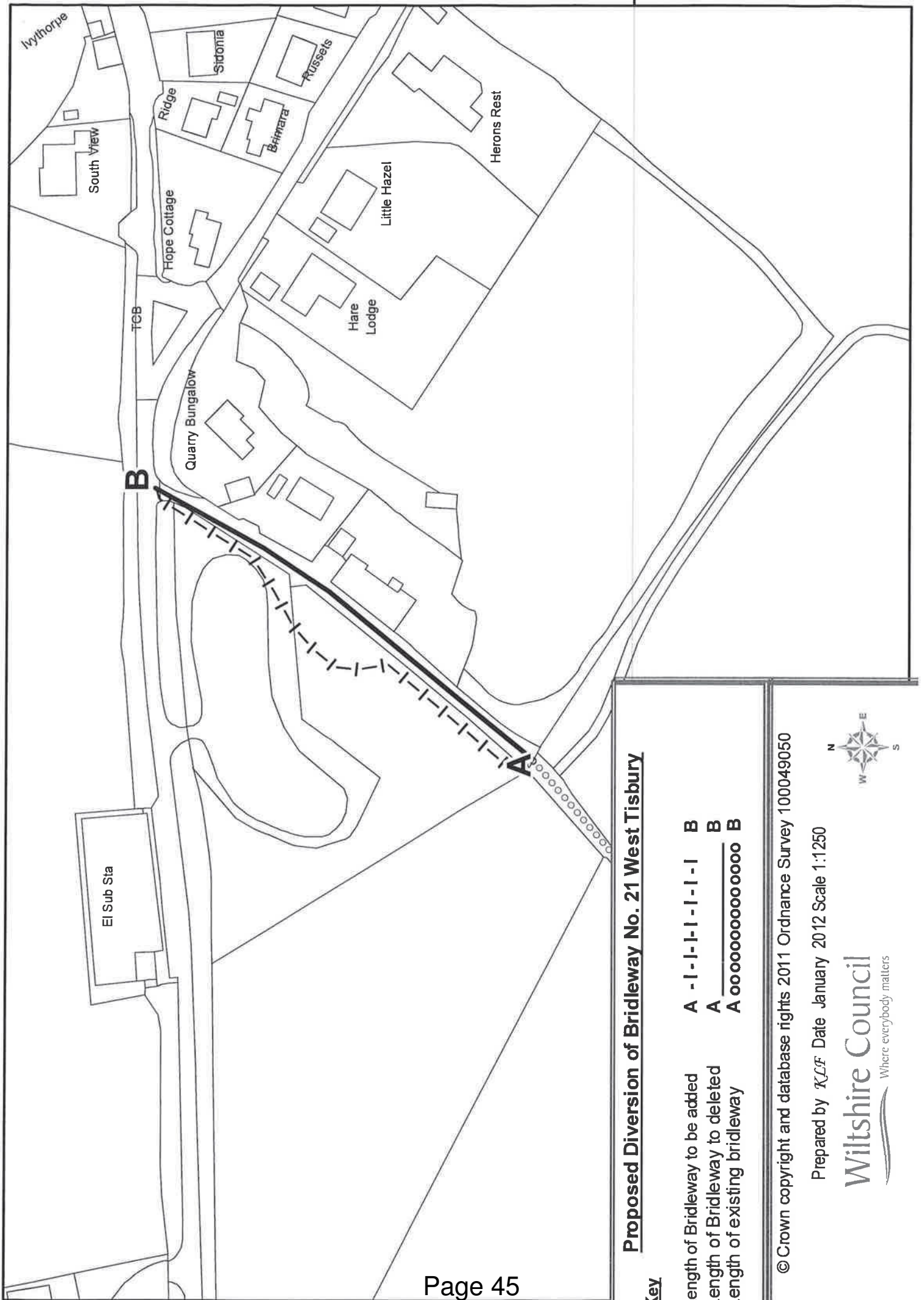
continuing generally north-east for
approximately 35 metres to OS Grid
Reference ST 9356-2912.
Width: 4 metres.
Approximate length: 135 metres.

THE COMMON SEAL of }
WILTSHIRE COUNCIL }
Was hereunto affixed this }
13th day of November 2012 }
In the presence of: -

Sue S. Green
Principal Solicitor



76537



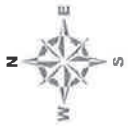
Proposed Diversion of Bridleway No. 21 West Tisbury

Key

- Length of Bridleway to be added A - | - | - | - | - | - | B
- Length of Bridleway to be deleted A _____ B
- Length of existing bridleway A oooooooooooooo B

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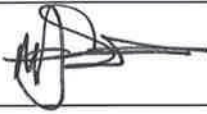
Prepared by *KLF* Date January 2012 Scale 1:1250



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**COVERING PAGE FOR DECISION REPORT ON WHETHER TO MAKE A PUBLIC PATH
DIVERSION ORDER UNDER SECTION 119 OF THE HIGHWAYS ACT 1980 – BRIDLEWAY
NO.21 WEST TISBURY**

PLEASE SIGN OFF THE REPORT NEXT TO YOUR NAME

| | | Signature | Date Signed Off |
|------------------------|--|--|-----------------|
| To: | Sarah Marshall (Senior Solicitor – Highways) |  | 1/10/12 |
| | Barbara Burke (Definitive Map and Highway Records Team Leader) |  | 26 Sept 2012 |
| | Richard Broadhead (Rights of Way and Countryside Manager) |  | 03/10/12 |
| | Ian Brown (Head of Environment Services) |  | 16.10.12 |
| | Mark Smith (Service Director, Neighbourhood Services) |  | 16/10/12 |
| From: | Janice Green | | |
| Date of report: | 5 th September 2012 | | |
| Return to: | Janice Green, Rights of Way (Ext. 13345) | | |

Nature of Report: This is a report from Janice Green (Case Officer) to Mark Smith (Officer with the relevant delegated powers).

Executive Summary:

Wiltshire Council are in receipt of an application, made under Section 119 of the Highways Act 1980 and dated 14th December 2011, to divert Bridleway no.21 West Tisbury, at Quarry House, Tucking Mill, West Tisbury. The application was made by the landowners in order to improve the privacy and security of Quarry House, (the definitive line of the bridleway presently passes directly alongside this property). Additionally the applicants consider that there would be the following public benefits as a result of the diversion:

- (i) Users of the bridleway would feel less invasive;
- (ii) Improved safety for path users from increased traffic using the existing route, i.e. the definitive route of the bridleway is shared with vehicles accessing properties as its northern end. The diversion route is safer as it will not be used by vehicles and
- (iii) Allowing the public to enjoy more open and attractive views, where the old route is more confined.

In 2011 the owners of Quarry House applied for and secured a temporary diversion of the bridleway, to enable works to be carried out alongside the property. At this time the landowners provided a suitable alternative route to the north-west of the definitive line and they have now applied for a permanent diversion of the bridleway onto this temporary diversion route.

Following an initial consultation regarding the diversion proposals, four objections were received, which have not been withdrawn.

Officer's Recommendation: That an order to divert Bridleway no.21 West Tisbury, be made under Section 119 of the Highways Act 1980 and that if no objections or representations are received, the order be confirmed by Wiltshire Council as an unopposed order.

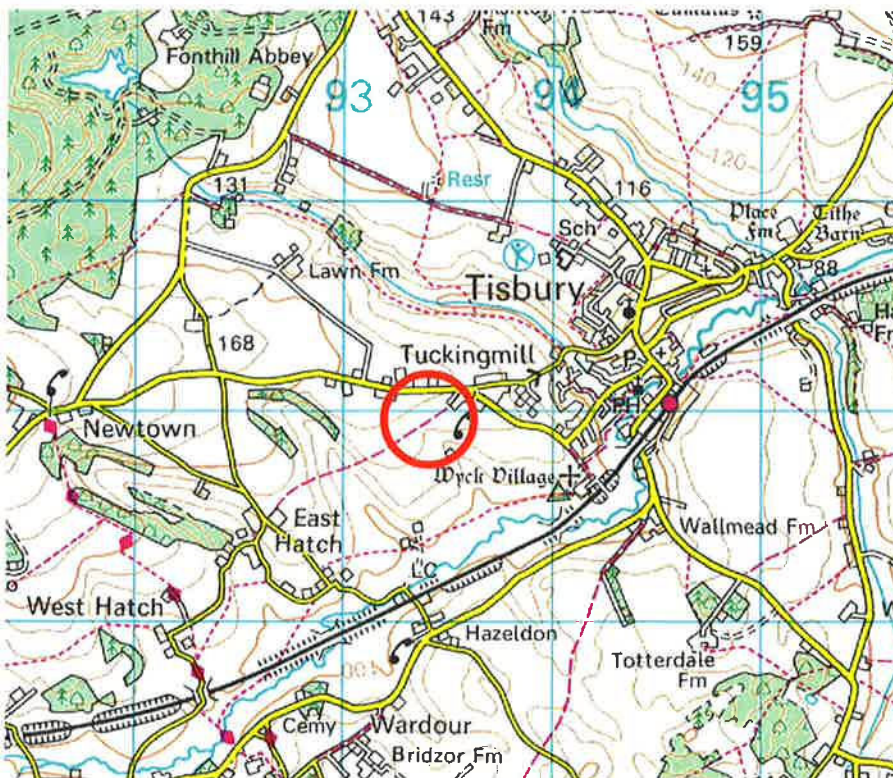
DECISION REPORT
HIGHWAYS ACT 1980 – SECTION 119
THE PROPOSED DIVERSION OF BRIDLEWAY NO.21 WEST TISBURY

1. Purpose of Report

1.1. To consider an application to divert Bridleway no.21 West Tisbury (part) at Quarry House, Tucking Mill, West Tisbury. The application has been made on behalf of the landowners, to improve the privacy and security of Quarry House. The applicants also consider that there would be the following public benefits as a result of the diversion:

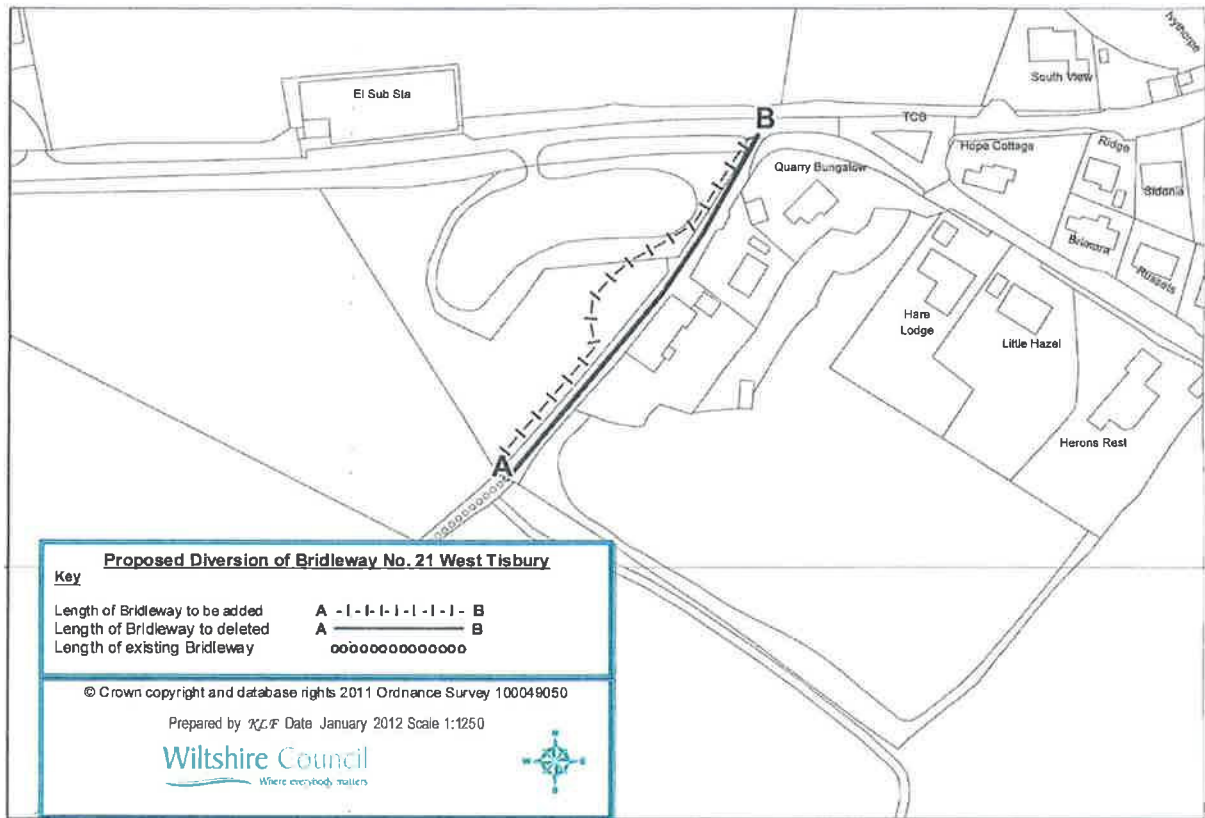
- i) users of the bridleway would feel less invasive;
- ii) improved safety from increased traffic using the definitive route, i.e. two cars at Quarry House, one car at Stoneleigh and recycling and bin lorries, the diversion route is safer as it will not be used by traffic and
- iii) allowing the public to enjoy more open and attractive views, where the old route is more confined.

2. Location Plan



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3. Proposed Diversion Plan



3.1. It is proposed to divert the definitive line of Bridleway no.21 West Tisbury, from a line A-B alongside Quarry House, Tucking Mill, West Tisbury, as shown by a solid black line on the above plan, to a new route leading from A-B to the north-west of the definitive line, as shown by a hatched line on the above plan.

4. Photographs



ST 9356-2912 looking south-west

The definitive line of Bridleway no.21 west Tisbury, at its junction with Hatch Lane, at point B, leading south-west.



ST 9354-2909 looking south-west

The definitive line of the bridleway leads south-west, directly alongside the property Quarry House.



ST 9352-2909 looking south-west

The definitive line of Bridleway no.21 west Tisbury leads south-west alongside Quarry House, at this point enclosed by a hedge on its northern side.



ST 9350-2904 looking south-west

Point A, at which the definitive line and the proposed diversion route converge.



ST 9348-2902 looking south-west

Gate at point A and views over the surrounding countryside.



ST 9356-2912 looking west

The proposed bridleway diversion route at point B, at its junction with Hatch Lane. The staddle stone erected here will be an obstruction if Bridleway no.21 West Tisbury is successfully diverted and must be removed to make the full proposed width of 4 metres available.



ST 9354-2911 looking south-west

The proposed diversion route leading south-west, parallel to the definitive line. The proposed route is not enclosed on its northern side and at present the route has a hard surface, although this has been objected to. The applicants have advised that there is potential to provide a grass surface and additional width if necessary.



ST 9353-2909 looking south-west

The proposed diversion route leading generally south-west, with views of the surrounding countryside.



ST 9351-2907 looking south-west

The proposed diversion route curving to the south, before continuing in a south-westerly direction to the gate at point A.



ST 9349-2904 looking south-west

The proposed diversion route leading south-west to point B. The proposed route is not enclosed on its northern side.

5. Applicant and Registered Landowners

- 5.1. Mr Andrew and Mrs Jean Watson
Quarry House
Tucking Mill
Tisbury
Wiltshire
SP3 6N5

6. Legal Empowerment

- 6.1. A diversion order can be made under Section 119 of the Highways Act 1980, which states:

“119. Diversion of footpaths, bridleways and restricted byways

- (1) *Where it appears to a council as respects a footpath, bridleway or restricted byway in their area (other than one that is a trunk road or a special road) that, in the interests of the owner, lessee or occupier of land crossed by the path or way or of the public, it is expedient that the line of the path or way, or part of that line, should be diverted (whether on to land of the same or of another owner, lessee or occupier), the council may, subject to subsection (2) below, by order made by them and submitted to and confirmed by the Secretary of State, or confirmed as an unopposed order,-*
- (a) *create, as from such date as may be specified in the order, any such new footpath, bridleway or restricted byway as appears to the council requisite for effecting the diversion; and*

(b) extinguish, as from such date as may be specified in the order or determined in accordance with the provisions of subsection (3) below, the public right of way over so much of the path or way as appears to the council requisite as aforesaid.

An order under this section is referred to in this Act as a 'public path diversion order'.

- (2) A public path diversion order shall not alter a point of termination of the path or way-*
- (a) if that point is not on a highway; or*
- (b) (where it is on a highway) otherwise than to another point which is on the same highway, or a highway connected with it, and which is substantially as convenient to the public.*
- (3) Where it appears to the council that work requires to be done to bring the new site of the footpath, bridleway or restricted byway into a fit condition for use by the public, the council shall-*
- (a) specify a date under subsection (1)(a) above, and*
- (b) provide that so much of the order as extinguishes (in accordance with subsection (1)(b) above) a public right of way is not to come into force until the local highway authority for the new path or way certify that the work has been carried out.*
- (4) A right of way created by a public path diversion order may be either unconditional or (whether or not the right of way extinguished by the order was subject to limitations or conditions of any description) subject to such limitations or conditions as may be specified in the order.*
- (5) Before determining to make a public path diversion order on the representations of an owner, lessee or occupier of land crossed by the path or way, the council may require him to enter into an agreement with them to defray, or to make such contribution as may be specified in the agreement towards,-*
- (a) any compensation which may become payable under section 28 above as applied by section 121(2) below; or*

(b) where the council are the highway authority for the path or way in question, any expenses which they may incur in bringing the new site of the path or way into fit condition for use for the public; or

(c) where the council are not the highway authority, any expenses which may become recoverable from them by the highway authority under the provisions of section 27(2) above as applied by subsection (9) below.

(6) The Secretary of State shall not confirm a public path diversion 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 the diversion to be effected by it is expedient as mentioned in subsection (1) above, and further that the path or way will not be substantially less convenient to the public in consequence of the diversion and that it is expedient to confirm the order having regard to the effect which-

(a) the diversion would have on public enjoyment of the path or way as a whole;

(b) the coming into operation of the order would have as respects other land served by the existing public right of way; and

(c) any new public right of way created by the order would have as respects the land over which the right is so created and any land held with it;

so, however, that for the purposes of paragraph (b) and (c) above the Secretary of State, or as the case may be, the council shall take into account the provisions as to compensation referred to in subsection 5(a) above.

(6A) The considerations to which-

(a) the Secretary of State is to have regard in determining whether or not to confirm a public path diversion order, and

(b) a council are to have regard in determining whether or not to confirm such an order as an unopposed order

include any material provision of a rights of way improvement plan prepared by any local highway authority whose area includes land over which the order would create or extinguish a public right of way."

7. Background

- 7.1. Wiltshire Council are in receipt of an application dated 14th December 2011, from Mr and Mrs Watson of Quarry House, Tucking Mill, West Tisbury, to divert Bridleway no.21 West Tisbury, under Section 119 of the Highways Act 1980.
- 7.2. The Bridleway presently passes directly alongside the property Quarry House, to the north-west. It is proposed to divert the bridleway in order to improve the privacy and security of Quarry House. The applicants are also concerned that the present route of the bridleway forms the vehicular access to properties at its northern end and is used by bin lorries, delivery vehicles etc. The proposed alternative route would remove the bridleway from the track presently used by vehicles. Additionally the applicants consider that the proposed diversion route would benefit the public as path users would feel less intrusive using a route which does not pass directly alongside Quarry House and by creating a more open and enjoyable route, with improved views of the countryside, where the present route is on a track enclosed between the wall of the property on its southern side and a hedge on its northern side. The proposed diversion route would have a recorded width of 4 metres including a grass verge, the remainder of the path having a compacted surface.
- 7.3. Prior to the application to permanently divert the bridleway, the owners of Quarry House secured a temporary diversion of the bridleway, in order to allow repairs to the side of the property. The owners provided a temporary diversion route to the north-west of the existing route, onto which they have now applied to permanently divert the bridleway.

8. Public Consultation

- 8.1. A public consultation exercise was carried out on 25th January 2012, with a closing date for all representations and objections to be received, in writing, by 6th March 2012.
- 8.2. The consultation included the landowner, statutory undertakers, statutory consultees, user groups and other interested parties, including the Wiltshire Council Member for Tisbury and West Tisbury Parish Council.
- 8.3. The following consultation replies were received and are summarised below:

Supporting Comments:

Mr William and Mrs Audrey Lacey – Correspondence dated 28th January 2012:

In full agreement with the diversion, the new owner is making a considerable improvement to the area for all users of the path. Also they might be spared the dog mess which is left on the bridleway outside their back gate, by some dog owners.

Mrs S W Drake – Correspondence dated 15th February 2012:

As a local resident and keen walker, my husband and I applaud the diversion of the path as:

- 1) The new path is easier to walk in terms of a more stable base. The previous pathway was rutted with badger holes and was very uneven at the end.
- 2) It is safer to walk without vehicular access – when walking with children and dogs one had to be aware of cars reversing into the lane and the coming and going of traffic.
- 3) Not invading the privacy of Quarry House. As a walker, I often feel the footpath is “too close for comfort”.
- 4) Aesthetically, the open vista at the start of the walk is more enjoyable compared with walking past houses.
- 5) The new pathway is easier for potential walkers to see and adopt.
- 6) It improves the overall look of this area of Tuckingmill.

National Grid Plant Enquiry Response – Correspondence dated 21st February 2012:

National Grid’s records show no apparatus in the vicinity of your enquiry.

Lady Gingell – Correspondence dated 23rd February 2012:

As a Tisbury resident and user of the route as part of a recreational walking route from Tisbury to Tucking Mill and back, I support the application. From a walkers point of view the diversion is an improvement, it makes a pleasant walk with agreeable views and removes the slight deterrent of passing directly in front of someones front door. Aged 86 the separation of the path from the vehicular access route is beneficial as I am no longer concerned with failing to hear vehicles.

I have discussed this matter with fellow walkers and they are in agreement.

As the former occupier of Quarry House, I support the diversion on the grounds of security. Whilst resident here we experienced two burglaries and the proximity of the

bridleway allows easy access for “casing the joint” by potential burglars. The proposed route reduces this risk without reducing the legitimate users pleasure.

David Cousin – Correspondence dated 28th February 2012:

As a resident at Stonelea, on the existing bridleway/track which forms part of the entrance to the property, my work requires me to travel to and from work twice a day and it is nice to have reduced foot traffic. It is reassuring to know that the property is more private and thus secure.

The layout and look of the diversion is very in-keeping with the surroundings and makes good use of the beautiful views.

Mr Roger Little – Correspondence dated 2nd March 2012:

Me and my family use this bridleway on an almost daily basis and fully support the application.

The current route takes walkers along the access lane used by vehicles, including large vehicles used to collect from and deliver to residences alongside the bridleway, particularly during darker months it can be quite dangerous.

The temporary diversion has proved beyond doubt the value of separating walkers and horses from the traffic. It is much less muddy and in no way detracts from the views offered to bridleway users. It is in every respect an improvement.

Mr Roger Little – Further Correspondence dated 3rd April 2012 (although received outside the initial consultation period, Officers have used their discretion to take these comments into account):

Temporary Diversion:

The temporary closure was made to enable work to the front of Quarry House, to be carried out safely. In order to do this it was essential for the new route to be clearly delineated and safe, which necessitated earthmoving plant to clear and level the ground and then a base of the old fill material that had been left in the former council yard, very sensibly spread to make a decent walking surface. If this had not been done there would have been complaints about the surface condition.

I fail to see why this should have been taken as presenting the users with a fait accompli. It was a commonsense measure to give users a clear, level, stable and mud free walking surface. There is a rumour that the new owners brought this land to build on it, which really would have destroyed the ambience of the area and would have been a far worse outcome.

Permanent Diversion:

As dog owners my wife and I have used the path for the last 8 years. Of the people who attended the site meeting I have only ever seen two use the route. Talking to others who use the bridleway, there is a consensus that the temporary diversion route was a perfectly acceptable alternative and one which they seem still to prefer and use.

Apart from the privacy issue, it would appear that not all dog owners are assiduous about clearing up after their pets and I suspect that none of us would wish to have to look at where we walk the moment we step outside our front door, nor should we put up with it.

Not convinced on the ancient right of way argument. I understood that the ancient right of way was through the ground that is now the site of the disused quarry and was re-routed when the stone extraction commenced there. Sceptical over the use of the path being for many generations, if a minimum of 75 years can this really be true. I have only seen riders on this section of path about twice although I have seen evidence that the local hunt uses it, but not more than once a year if that.

“Health and Safety” issues are not irrelevant, the mix of motor vehicles, walkers, cyclists, riders, all those entitled to use the present route, invites trouble. Many users are forced to use the route during twilight and even dark hours during winter months and dodging vehicles on a narrow route is potentially dangerous. Also imposing a greater physical separation between the house and the route will surely prove a disincentive for the casual thief.

The walking surface and width of any diversion must meet the required standard. The bridleway beyond the field gate towards Hatch is very damaged and the current bridleway is far from easy walking, with a badger sett and often slippery and uneven surface. I question whether the definitive route is as wide as the temporary diversion, i.e. certainly not 4 metres.

The points about the vista are not to be dismissed and if the landowners were to plant trees at the far end of the diversion then the users view would be blocked until it opened up at the reaching the gate at the end of the diversion, as it does now. After all it is the vista across the Nadder Valley towards the Donheads and Win Green beyond that provides the “wow factor”, not the fields to the right of the bridleway. I see no reason not to support the application as making the route safer and easier to use, I find the dark tunnel quite intimidating at night, would be in the interests of users and a chance to greatly improve the amenity of this area. The alternative offered is a minimum change in route and would improve the utility for riders and measures to preserve the view and seems to offer a commonsense solution.

Odette Lynch – Correspondence dated 5th March 2012:

As long-term visitors to the area, we support and fully agree the diversion and fully support the efforts the new owners are making.

Reverend Andrew Staley – Correspondence dated 9th April 2012 (although received outside the initial consultation period, Officers have used their discretion to take these comments into account):

In favour of the request. Even though I knew Prue Gingell well, I always felt a little nervous walking by her door to walk in the field beyond. On walking the temporary diversion put in whilst the Watsons were working on the house, the new path detracted nothing from the walk and added a greater sense of avoiding intruding on the privacy of their house.

Objections:

Wiltshire Bridleways Association – Correspondence dated 16th February 2012:

Supports this action but objects to the proposed width of 4 metres. This is insufficient and we would also ask why there is a need for a compacted surface on a bridleway.

We would prefer to see the diversion to be grass only.

Also we would like confirmation that there would be no gates on the diversion.

West Tisbury Parish Council – Correspondence dated 16th February 2012:

West Tisbury Councillors met on 2nd February and discussed the proposals to divert this path. After some debate, they resolved to object to the proposals for a permanent diversion on the following grounds:

- 1) This is a long established ancient right of way which is much used and enjoyed by riders and walkers. The ancient route has a “magical” feel which is not replicated by the diverted path.
- 2) The rationale in favour of diverting the path is insufficiently robust and not in the interests of the general public. Rather Councillors took the view that it is a proposal to suit the interests of the new owners of Quarry House.
- 3) There are strong objections in principle from local neighbours who have known and used the path for many generations and see no merit in diversion.

There is no objection to a temporary diversion whilst building works are carried out at Quarry House.

Peter Thompson – Correspondence dated 20th March 2012 (although received outside the initial consultation period, Officers have used their discretion to take these comments into account):

Concern over the way in which the owners of Quarry House are behaving in regard to the bridleway. They are in the process of trying to move permanently this bridleway to the temporary position which was supposed to be set up to enable them to work on their house for a 6 month period.

The temporary diversion route is not the same size as the existing bridleway and there is a large stone pillar at the entrance to the footpath which obstructs any larger access other than pedestrians, which is not what a bridleway should provide. It is obvious that the owners are trying to prevent any other access as they had already put up staddle stones on the current bridleway to prevent the full width of the bridleway being used.

Having lived in Tuckingmill for 40 years and regularly using this bridleway, this is the first time that any obstruction has occurred. The bridleway should stay in its original position and the temporary closure should lapse.

Roger Walker, Chairman, Tisbury Football Club – Correspondence dated 3rd April 2012 (although received outside the initial consultation period, Officers have used their discretion to take these comments into account):

Three issues to be considered here:

- 1) Temporary diversion – correctly applied for and information concerning the temporary diversion was available at both ends of the path. The work for which the diversion was applied for has now been completed and the path should be realigned to its definitive route whilst the permanent diversion is considered. Concern amongst football club members and neighbours in Tucking Mill that the temporary diversion appears to have become permanent without any public notice being displayed at either end of the path or any public consultation.
- 2) Application for permanent diversion – essential that appropriate notices outlining the diversion are displayed at both ends of the proposed diversion in order that local path users are given opportunity to submit their observations. At my last visit there were no such notices and any consultation period should commence at the date when such notices were displayed.
- 3) Should the application be accepted or rejected – With about 80 club members there is no single opinion on this. Those living locally in Tucking Mill area, or use the path regularly may strongly oppose the diversion of this ancient right of way, whilst others who live in other areas of Tisbury and West Tisbury, who maybe do

not use the path, do not have a view, or see no reason to object. Therefore those who do use the path should be fully informed of the application through publicly displayed notices.

This right of way has existed on its present alignment for many generations, Quarry House has existed for many years. Previous owners of Quarry House have seen no reason to divert it, presumably the new owners were aware of the existence of a bridleway from searches on purchasing the property. There does not appear to be any substantive reason to divert the path. I do not see what safety issues are being referred to, the only positive reason is the privacy of the new owners, if this is accepted as a reason for diversion it could set a very dangerous precedent.

- 8.4. As a result of the objections received, Wiltshire Council and West Tisbury Parish Council arranged a meeting with objecting parties to discuss the objections in further detail. Notes from this meeting dated 26th March 2012, prepared by Janet Amos, Clerk of West Tisbury Parish Council, are attached at Appendix A. No objections were withdrawn as a result of this meeting and on 13th April 2012, West Tisbury Parish Council wrote to confirm that following further discussion of the application at the Parish Council meeting following the site meeting, they had no further comments to add to their previous resolution and maintain their objection to the permanent diversion of the bridleway.
- 8.5. Officer's comments on the objections received, are attached at Appendix B.

9. Main Considerations for the Council

- 9.1. Section 119 of the Highways Act 1980 allows the Highway Authority to divert a bridleway where it considers it expedient to do so in the interests of the landowner and/or the public. This particular application has been made in the interests of the landowner to improve the privacy and security of Quarry House.
- 9.2. Additionally the applicants also consider that there would be the following public benefits to the diversion:
- (i) users of the bridleway would feel less invasive;
 - (ii) improved safety from increased traffic using the definitive route, i.e. two cars at Quarry House, one car at Stoneleigh and recycling and bin lorries, the diversion route is safer as it will not be used by traffic and

(iii) allowing the public to enjoy more open and attractive views, where the old route is more confined.

9.3. A diversion must not alter the termination points of a path where these are not on a highway and where they are located on a highway they must not be altered, other than to another point on the same highway, or a highway connected with it. Points A and B remain unaltered (please see diversion application plan above at 3).

9.4. The proposed diversion satisfies both the above-mentioned legal tests for the making of an order. However, at the confirmation of an order there are a number of additional legal tests to be considered:

- 1) It must be expedient to confirm the order in the interests of the landowner and or the public (as seen above).
- 2) The diverted route must not be substantially less convenient to the public.
- 3) It must be expedient to confirm the order having regard to the effect which:
 - i) The diversion would have on public enjoyment of the path or way as a whole;
 - ii) The coming into operation of the order would have as respects other land served by the existing public right of way;
 - iii) Any new public right of way created by the order would have as respects the land over which the right is so created and any land held with it.

At ii) and iii) above, the land over which the existing path passes and the land over which it is proposed to place the newly created bridleway, are in the ownership of the applicants, Mr and Mrs Watson, and no compensation claims are anticipated.

9.5. The diversion of the bridleway deletes approximately 122 metres of bridleway and creates approximately 136 metres of bridleway, which is not substantially less convenient to the public.

9.6. Additionally the diverted bridleway will have a recorded width of 4 metres, open and available for public use, where no width is presently recorded within the definitive statement for Bridleway no.21 West Tisbury and the section of diverted bridleway is not enclosed on its northern side.

9.7. There have been consultation responses from the public making comments on the effect of the diversion on public enjoyment of the path, however this is subjective and overall Officers do not consider that the enjoyment of the path or way as a whole will

be detrimentally affected by the diversion. The diversion opens up views of the surrounding countryside and the applicants are proposing to carry out landscaping works to the former Council yard (now in the ownership of the applicants), which will further enhance this area. It is also considered that the diversion will further enhance use of the path by creating a safer bridleway route which is not used by vehicles. There are no additional limitations or conditions on public use of the path as a result of the diversion and the diversion route will have a level and improved surface for use by the public.

- 9.8. Officers consider that, despite the objections received, the legal tests for the confirmation of an order are met at present and the order appears capable of being confirmed, however this is subject to a further consultation period once an order has been made.
- 9.9. Under sub-section 6A of Section 119 of the Highways Act 1980, the Council must also have regard to any material provision of any Rights of Way Improvement Plan - the Wiltshire Council Rights of Way Improvement Plan 2008-2012 (ROWIP). The ROWIP includes the following aims:
- *Increase access to the countryside for buggies, older people, people with mobility problems and other impairments (p.43 Improvements 1, 2 & 3).* The diversion route will have a recorded width of 4 metres open and available for public use, where no width is recorded on the present definitive line. There are no additional limitations or conditions to public use of the path as a result of the diversion and the diversion route will have a level and improved surface, suitable for use with buggies and by older people, people with mobility problems and other impairments.
 - *Increase access to the countryside for people who are blind and partially sighted (p.44 Improvements 4 and 5).* The diversion route will have a recorded width of 4 metres open and available for public use, where no width is recorded on the present definitive line. There are no additional limitations or conditions to public use of the path as a result of the diversion and the diversion route will have a level and improved surface, suitable for use by those who are blind or partially sighted.

- *The promotion and development of the public rights of way network, enabling pedestrians, cyclists and horse riders to avoid heavy or intrusive traffic (p.46 Improvement 3).* The present route of the bridleway also forms the vehicular access to several properties and the route is also used by bin lorries and delivery vehicles etc. The proposed diversion route is not shared with vehicles and Officers view this as an improvement as it reduces the risk of conflict between different types of users.

10. **Risk Assessment**

10.1. None.

11. **Environmental Impact**

11.1. None.

12. **Legal Considerations**

12.1. There is no right of appeal for the applicant where the Surveying Authority refuses to make a public path diversion order, however the Councils decision would be open to judicial review.

12.2. If the Council does make a public path diversion order and objections are received, where the Council continues to support the order it may be forwarded to the Secretary of State for decision which may lead to the order being dealt with by written representations, hearing or local public inquiry. The Inspectors decision may be subject to challenge in the High Court.

12.3. The making of a public path diversion order is a discretionary duty for the Council, rather than a statutory duty, therefore an order may be withdrawn at any time, where the Council no longer continues to support the making of the order.

13. **Equality Impact**

13.1. The ROWIP recognises the Council's duty to have regard to the Disability Discrimination Act 1995 (now replaced by the Equalities Act 2010) and to consider the least restrictive option for public use. The proposed diversion route places no

additional limitations and conditions on public use of the bridleway, there are no gates required for the purposes of stock control or health and safety reasons. Additionally the proposed new route will have a recorded width of 4 metres, open and available for public use.

13.2. Costs

- 13.3. The applicant has agreed, in writing, to meet the actual costs to the Council in processing the order, including advertising the making of the order in one local newspaper and should the order be confirmed, the actual costs of advertising the notice of confirmation in one local newspaper, (i.e. two advertisements).
- 13.4. The applicant has also agreed, in writing, to pay any expenses which may be incurred in bringing the new bridleway into a fit condition for use by the public, as required by the Council.
- 13.5. If a diversion is made under Section 119 of the Highways Act 1980, and there are no objections to the making of the order, Wiltshire Council may itself confirm the order and there are no costs to the Council.
- 13.6. If there are outstanding objections to the order which are not withdrawn and the Council continues to support the making of the order, it can be forwarded to the Secretary of State for decision. The outcome of the order would then be decided by written representations, local hearing or local public inquiry, all of which have a financial implication for the Council. 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. These costs cannot be passed to the applicant and must be borne by Wiltshire Council.
- 13.7. The making of a diversion order is a discretionary duty for the Council rather than a statutory duty, therefore a made order may be withdrawn at any time if the Council no longer continues to support the order, for example if it no longer meets the legal tests set out under Section 119 of the Highways Act 1980.

14. Options to Consider

- 14.1. (i) To refuse the application, or
(ii) To make an order to divert Bridleway no.21 West Tisbury, under Section 119 of the Highways Act 1980.

15. Reasons for Recommendation

- 15.1. It is considered that the legal tests for the making of a diversion order under Section 119 of the Highways Act 1980, have been met, i.e. the order can be made in the interests of the landowner to improve the privacy and security of Quarry House.

There are additional public benefits to the diversion:

- i) creating a route where users of the bridleway would feel less invasive,
- ii) improved safety from increased traffic using the definitive route, i.e. two cars at Quarry House, one car at Stoneleigh and recycling and bin lorries, the diversion route is safer as it will not be used by traffic,
- iii) allowing the public to enjoy more open and attractive views, where the old route is more confined.

- 15.2. The diversion will benefit the public by adding a width of 4 metres, open and available for public use over the new bridleway, where no width is presently recorded within the definitive statement. The diversion route is not substantially less convenient to the public, i.e. the diversion adds approximately 14 metres to the length of the bridleway, with a level and improved surface for use by the public and there are no additional conditions or limitations on the public use of the path as a result of the diversion. Despite the objections received, it is not considered that the diversion will have a detrimental effect upon the public enjoyment of the path or way as a whole. It is therefore considered that the tests for confirmation of an order have also been met.

- 15.3. The proposed diversion also meets other considerations which the Council must take into account, such as the provisions of the ROWIP.

16. Recommendation

- 16.1. That an order to divert Bridleway no.21 West Tisbury, be made under Section 119 of the Highways Act 1980 and that if no objections or representations are received, the order be confirmed by Wiltshire Council as an unopposed order.

Janice Green

Rights of Way Officer, Wiltshire Council

Date of Report: 5th September 2012

**APPENDIX A – MINUTES OF WILTSHIRE COUNCIL SITE MEETING WITH WEST
TISBURY PARISH COUNCIL AND OBJECTORS, DATED 26TH MARCH 2012**

WEST TISBURY PARISH COUNCIL

Notes to summarise points made at a site meeting held on Monday 26 March 2012 at 2.00 pm re proposed diversion of the bridle way from Hatch Lane, Tuckingmill to East Hatch.

Meeting called by: Mrs Janet Amos, Clerk to the Parish Council,
c/o Post Office House, High St, Tisbury SP3 6LD

Present: Cllrs Nigel Noyle and Mrs G Matthews; Ben Short, Savills agent; Mrs J Watson, applicant; Nick Cowen, footpath warden; Janice Green, Footpath Officer; Peter Thompson, neighbour; David Lacey, neighbour; Janet Amos, Clerk to the parish council

The meeting was held so that all parties could express any concerns they may have regarding proposals to divert the existing bridle way at Hatch Lane, Tuckingmill. It is proposed that the new path will be diverted a short distance away from Quarry House, through land which was formerly the old Council storage depot. There would be no change of entry point to the path from Hatch Lane and the path rejoins the existing right of way at the gate at the entrance to the field.

It was noted that there are 2 entirely separate issues relating to the diversion:

1. Temporary diversion – the building works at Quarry House which necessitated a temporary diversion of the right of way, have now been completed. The temporary fencing will be removed as soon as possible and the existing right of way will be reinstated, whilst consideration is given to the application for a permanent diversion.
2. Application for a permanent diversion of the right of way – a formal application has now been made. At their meeting in February 2012, the parish council resolved to object to the diversion for the following reasons:
 - this is a long established ancient right of way which is much used and enjoyed by riders and walkers alike. The ancient route has a 'magical' feel which is not replicated by the diverted path.
 - the rationale in favour of diverting the path is insufficiently robust and not in the interests of the general public. Rather, Councillors took the view that it is a proposal to suit the interests of the new owners of Quarry House.
 - there are strong objections in principle from local neighbours who have known and used this path for many generations and see no merit in the diversion.

Wiltshire Council had therefore asked for a site meeting to consider the issues.

On behalf of the applicant, Ben Short summarized the rationale in favour of the diversion:

- idea is to move the bridle path over to improve safety for all users
- improve privacy for owners of Quarry House
- new path closely follows the old line
- there is an improved vista for walkers
- the intention is to turn the old Council depot into a Conservation Area
- the new path has a good surface although the applicant has noted comments from Wiltshire Bridleways Association that the surface is not good for use by horses as the stones are too small. WBA would also prefer a wider path – at least 4m
- Applicants have suggested they may provide a bench at the end of the path overlooking the view of the valley

Comments from the Footpath Warden:

- confirmed that the temporary path was required for Health & Safety purposes whilst building works were carried out
- Asked those present to understand that the legal right of way remains as previously until or unless an order is made to divert the path
- Agrees the new proposed path marginally benefits the owners of Quarry House
- Notes the start and finish points of the diverted path are the same as previously

Comments from Peter Thompson, local resident:

- Concerned at apparent lack of local consultation – new path constructed without a diversion order
- Locals are confused because they hadn't realized the goal-posts had moved and that this is now an application for a permanent diversion
- Concerned at the restricted width – can't take a cart through
- Issue relating to health and safety isn't relevant – H&S has never previously been a concern
- Likes the way the old path opens out at the end to its amazing view point

Comments from the Rights of Way Officer:

- In considering the application, the Council may take account of 'public enjoyment' of the right of way
- Need to ensure that the diversion is not an inconvenience to members of the public
- The new path should have the same highway access points as previously
- Further clarified the point that the initial works had been related to the temporary diversion; this is now a separate application for a permanent diversion
- If approved, the Council will make an order which will be advertised in the local press; the public is invited to comment and/or make representations
- The new path should have a recorded width (eg 4m – if that is agreed)
- The path will be specifically classified as a bridleway – access is permitted for walkers; cyclists and riders but no other vehicles.

Comment from Mrs Watson, applicant

- Clarification – the old vehicular right of way in favour of the Angling Club and others, was relinquished when the site was purchased
- Asked meeting to note that parish council was informed in November 2011 of intention to apply for a permanent diversion

Comments from Mr Lacey, neighbour:

- Expressed surprise at parish council's decision
- Is in favour of the revised route
- Most neighbours have no concerns
- Concerned that the Aspen tree should be felled before it falls down, as it is already dying

Comments from Cllr Noyle

- Was in favour of the temporary diversion but concerned that it was constructed in such a way as to make people believe that the path would become permanent
- Agrees that some neighbours are in favour, but others are very much against
- Small majority of comments Cllr Noyle has received are not in favour of the diversion
- Residents like the old path with its tunnel-like aspect, opening to the view at the end
- Understands the applicant's concerns re dog-fouling but that is a problem everywhere

- Acknowledge there is no change to the start and finish points of the path
- Suggested possibly there is less security for the owners if walkers no longer go past the house – no-one to check from a neighbourhood watch point of view

Comments from Cllr Matthews:

- Concerned at the way in which the diversion works have been carried out so that the community is presented with a fait-accompli, although understand the comments made regarding 2 separate issues

Conclusion:

- JG will wait until after the next parish council meeting in case Councillors wish to make any further comments, before preparing her report
- JA will contact the local footpath club for consultation
- JW will ensure the temporary fencing is removed whilst the application is being considered
- It was noted that the final decision is made by Wiltshire Council management committee. JG will write a status report for consideration.
- All agreed the issue is not yet concluded and there is scope for further comments to be considered.

The meeting closed with no further discussion.

APPENDIX B – WILTSHIRE COUNCIL OFFICER COMMENTS ON THE OBJECTIONS RECEIVED

OBJECTION

WILTSHIRE COUNCIL OFFICER COMMENTS

Wiltshire Bridleways Association

- | | |
|---|--|
| 1) Objects to the proposed width of 4 metres. This is insufficient | 1) The landowner has advised that there is scope to increase the width of the proposed new bridleway. This was put to Wiltshire Bridleways Association who have given no indication of a sufficient width. |
| 2) Why is there a need for a compacted surface on a bridleway, we would prefer to see the diversion to be grass only. | 2) The applicant has agreed that it would be possible to provide a bridleway surface laid to grass. |
| 3) Would like confirmation that there would be no gates on the diversion. | 3) There are no new gates on the proposed diversion route. |

West Tisbury Parish Council

- | | |
|---|--|
| 1) This is a long established ancient right of way which is much used and enjoyed by riders and walkers. The ancient route has a “magical” feel which is not replicated by the diverted path. | 1) Bridleway no.21 West Tisbury, on its present alignment, was added to the definitive map in 1994, previous to that the route existed on a different alignment line to the south and east of Quarry House, over what is now the disused quarry. |
|---|--|

(this line was extinguished by the same definitive map modification order in 1994). Therefore the route on its present alignment is not an ancient right of way.

2) The rationale in favour of diverting the path is insufficiently robust and not in the interests of the general public. Rather Councillors took the view that it is a proposal to suit the interests of the new owners of Quarry House.

3) There are strong objections in principle from local neighbours who have known and used the path for many generations and see no merit in diversion.

Peter Thompson

1) Concern over the way in which the owners of Quarry House are behaving in regard to the bridleway. They are in the process of trying to move permanently this bridleway to the temporary position which was supposed to be set up to enable them to work on their house for a 6 month period.

2) A public path diversion order may be applied for and made in the interests of the owner/occupier of the land crossed by the path or way.

3) One neighbour and the Chair of Tisbury Football Club have made written objection to Wiltshire Council. Four residents of Tucking Mill and the former owner of Quarry House have written in support of the application.

1) An application to permanently divert the bridleway has been correctly made to Wiltshire Council and following the temporary diversion, Wiltshire Council are satisfied that the definitive line of the bridleway is now open and available to the public whilst the permanent diversion is being considered.

- 2) The temporary diversion route is not the same size as the existing bridleway and there is a large stone pillar at the entrance to the footpath which obstructs any larger access other than pedestrians, which is not what a bridleway should provide. It is obvious that the owners are trying to prevent any other access as they had already put up staddle stones on the current bridleway to prevent the full width of the bridleway being used.
- 2) If the path is successfully diverted as a result of the permanent diversion application, the new route will have the status of bridleway, as the existing, for use by the public on foot, on horseback, leading a horse and with bicycles. Additionally the proposed route will have a recorded width of 4 metres where the definitive route has no recorded width. The large stone pillar at the entrance to the proposed diversion route, presently prevents access on horseback, however if the route is successfully diverted, any obstruction of the width will not be acceptable to the Council and the route must remain accessible to horse riders throughout its route. Wiltshire Council will not certify the new right of way until they are satisfied that it has been provided to a suitable standard for use by horse riders and pedestrians.
- 3) Having lived in Tucking Mill for 40 years and regularly using this bridleway, this is the first time that any obstruction has occurred. The bridleway should stay in its original position and the temporary closure should lapse.
- 3) The public right of way has not been obstructed. When the owners of Quarry House were carrying out works to the side of the property, they correctly applied for and secured a temporary diversion of the bridleway, providing a suitable alternative. The owners of Quarry House have now correctly applied for a permanent diversion to put Bridleway no.21 West Tisbury onto the line of the temporary diversion route. They have followed the correct application procedures and

Wiltshire Council are satisfied that the definitive line of the bridleway is open and available to the public whilst the permanent diversion application is determined.

Roger Walker, Chairman, Tisbury Football Club

- 1) Temporary diversion – correctly applied for and information concerning the temporary diversion was available at both ends of the path. The work for which the diversion was applied for has now been completed and the path should be realigned to its definitive route whilst the permanent diversion is considered. Concern amongst football club members and neighbours in Tucking Mill that the temporary diversion appears to have become permanent without any public notice being displayed at either end of the path or any public consultation.

- 1) The work for which the temporary diversion application was made has now been completed and the original definitive line of the path is now available, in addition to the alternative route which formed the temporary diversion. The temporary diversion has not been made permanent and there has been no modification to the definitive map of public rights of way to affect such a change. Wiltshire Council have received an application for permanent diversion which is now under consideration. Wiltshire Council have only carried out an initial consultation, which is not a statutory procedure and there is no requirement to post notice of the application at either end of the path, or to consult more widely at this early stage. Public notices are only required to be posted at either end of the path if a public path diversion order is made.

- 2) Application for permanent diversion – essential that appropriate notices outlining the diversion are displayed at both ends of the

- 2) As above.

proposed diversion in order that local path users are given opportunity to submit their observations. At my last visit there were no such notices and any consultation period should commence at the date when such notices were displayed.

- 3) Should the application be accepted or rejected – With about 80 club members there is no single opinion on this. Those living locally in Tucking Mill area, or use the path regularly, may strongly oppose the diversion of this ancient right of way, whilst others who live in other areas of Tisbury and West Tisbury who maybe do not use the path, do not have a view or see no reason to object. Therefore those who do use the path should be fully informed of the application through publicly displayed notices.
- 4) This right of way has existed on its present alignment for many generations, Quarry House has existed for many years. Previous owners of Quarry House have seen no reason to divert it, presumably the new owners were aware of the existence of a bridleway from searches on purchasing the property. There does not appear to be any substantive reason to divert the path. Do not see what safety issues are being referred to, the only positive reason is the privacy of the new owners, if this is accepted as a reason for diversion it could set a very dangerous
- 3) As above.
- 4) Bridleway no.21 West Tisbury, on its present alignment, was added to the definitive map in 1994, previous to that the route existed on a different alignment to the south and east of Quarry House over what is now the disused quarry, (this line was extinguished by the same definitive map modification order in 1994). Therefore the route on its present alignment is not an ancient right of way.
- A previous owner of Quarry House has written in support of

precedent.

the application.

A diversion application is considered on its own merits against the legal tests set out under Section 119 of the Highways Act, which allows a diversion order to be made in the interests of the landowner.

**APPENDIX 4: CORRESPONDENCE FROM R A HALE DATED 20 DECEMBER 2012
AND 15 JANUARY 2013**

To:

Miss J Green
Rights of Way Officer
Neighbourhood Services
Wiltshire Council
County Hall
Bythesea Road
Trowbridge Wiltshire
BA14 8JN

From:

R A Hale
Botallack
Monmouth Road
Tisbury
Wiltshire
SP3 2NL

20 December 2012

Reference: Path diversion 2011/28
Bridleway, Tuckingmill, West Tisbury

Dear Miss Green,

I am writing to object to the above referenced bridleway diversion, I have three objections which are detailed below. This letter has been sent by recorded delivery so I have proof of delivery.

Background

The bridleway for which a diversion order has been applied for was recently temporarily closed for the installation of underground services. During this period a **temporary** alternative pathway was put in place to enable continued use of the right of way. The diversion application attempts to make this temporary diversion **permanent**.

The bridleway provides pedestrian and equine access to a path to West Hatch which is heavily used at times.

Objection 1 - the proposed diversion is not equivalent to the existing bridleway

The existing bridleway is used for access to dwellings and agricultural access to fields. As such it is maintained in a usable condition (see **Annex 1**). The proposed diversion is a temporary construction (as stated in "Background" above) which was not intended as a permanent arrangement and is already becoming overgrown (see **Annex 2**).

The diversion application makes no provision for the maintenance of the proposed diversion in an equivalent state to the existing bridleway, either in the short term or over time. It will soon degrade into a track over a field.

The bridleway is used by horses and as the existing temporary surface degrades and eventually disappears altogether the route will become unusable to pedestrians. As a local farmer has recently barred alternative permissive access to the West Hatch path increased pedestrian usage will be experienced along the bridleway.

Objection 2 - the diverted route will be blocked by hippies/travellers

As a result of the underground services work the council work/storage area adjacent to the proposed diversion now incorporates the proposed diversion. The council work area has been occupied hippies/travellers in the past and in order to prevent this the council placed large concrete blocks behind the gateway from the road to prevent access.

These blocks have now been removed and donated to a property owner to mark out a parking area (see **Annex 3**) - leaving easy access to the council work area through the gateway again.

A hippy caravan has taken up residence in a lay-by outside the council work area access gate (see Annex 4). More hippies may arrive in the spring to move into the council work area. If travellers move in, their dogs may render the proposed diversion inaccessible.

Objection 3 - the diversion is an opportunistic attempt to raise property values

It is apparent, for the reasons in the previous paragraphs, that the proposed diversion is not a viable alternative to the existing bridleway. The proposed diversion would appear to be an opportunistic attempt to use a temporary diversion as the permanent way to increase property values.

There is no public benefit from this diversion, indeed just the opposite is true, and therefore I consider the diversion request should be refused.

Yours sincerely

R A Hale

Annex 1 - the existing bridleway is maintained in a usable condition



Annex 2 - the temporary diversion is already becoming overgrown after less than a year



Annex 3 - the blocks previously used to bar access to the council work area have been removed and used to mark car parking



Annex 4 - hippy caravan in lay-by outside the council work area access gate



To:

Miss J Green
Rights of Way Officer
Neighbourhood Services
Wiltshire Council
County Hall
Bythesea Road
Trowbridge Wiltshire
BA14 8JN

From:

R A Hale
Botallack
Monmouth Road
Tisbury
Wiltshire
SP3 2NL

15 January 2013

Reference: JG/PC/24 2011/28
Bridleway, Tuckingmill, West Tisbury

Dear Ms Green,

Thank you for acknowledging receipt of my letter of 20 December 2010 and your letter and additional information dated 10 January 2013.

I do wish to maintain my objections (most importantly the third objection) and I have clarified my reasons below.

Objection 1 - the proposed diversion is not equivalent to the existing bridleway

Your letter (10 Jan 2013) states that the diverted path will be reconstructed to council requirements (which addresses my objection to the existing track) but does not address the issue of future maintenance adequately.

1. You state that the "The ongoing maintenance of the surface of the bridleway is the responsibility of the Wiltshire Council, working in conjunction with the landowner". It also refers to the problems at the Southern end of the existing bridleway: "uneven surface of the present definitive route" and "damage caused by the presence of a badger sett". If the maintenance arrangements you describe were adequate there would be no existing issues with the surface of the existing bridleway, therefore they are unlikely to work for the diversion.
2. The maintenance of the existing bridleway is primarily the responsibility of its' owner and vehicular users while the ongoing maintenance of the proposed diversion is (according to your letter) is the responsibility of the Council. This seems to me to be a transfer of cost to the public purse, surely if the diversion is granted it should be conditional on the maintenance of the diverted route by the users/owners of the existing route - as they will not use the diversion they have little interest in maintaining it.

As a matter of interest, there is no damage to the existing bridleway from the badger sett (which is off the bridleway), just some spoil from the excavations which could easily be removed.

Objection 2 - the diverted route will be blocked by hippies/travellers

Page 5 of the decision report contains a diversion plan which indicates the previously council owned land inside an earth berm. Part of this berm (between the ex-council area and Quarry House) was removed during the works for which the bridleway was

temporarily diverted, providing access to additional flat areas which could be used for travellers vehicles - making it an even more attractive site.

Anyone who reads the papers or listens to the news cannot but be aware of the problems and timescales involved in moving travellers on. Your response to this issue is therefore completely inadequate.

Objection 3 - the diversion is an opportunistic attempt to raise property values

The decision report lists three public benefits to the diversion; these are set out below with my comments:

1. Users of the bridleway would feel less invasive

I have used the bridleway for 20 years and have neither felt invasive or met anybody else who has. There are only 2 or 3 small Quarry House ground level windows adjacent to the existing bridleway.

2. Improved safety for path users from increased vehicular traffic using the existing route ...

In all the time I have used the Bridleway I have never encountered moving traffic. In any event, vehicles using the bridleway have to go slowly because of the bridleway width. I am unaware of any accidents.

3. Allowing the public more and attractive views.

of a field which often has a huge manure pile on it and a few hills on the horizon. The views begin at the Southern junction of the existing and diverted bridleways.

Frankly, I regard the supposed benefits as facetious and I remain of the view that this is simply an opportunistic attempt by a new owner, who presumably purchased the property in full knowledge of the bridleway, to increase the value of the property. I think this would set a very bad precedent which would result in a rash of other diversion requests.

Quite simply, there is no public benefit to the diversion.

Additional Comments

Security of Quarry House: I doubt that the burglaries at the property were by casual passers-by as the property is off the road. The proposed diversion would make the property more secluded and therefore an easier target.

Other objections: You state that there are no other objections to the order, there are several pages of objections in the decision report.

Yours sincerely



R A Hale

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APPEALS

Appeal Decisions

| Application Number | Site | Appeal Type | Application Delegated/ Committee | Appeal Decision | Overturn | Costs |
|--------------------|---|-------------|----------------------------------|----------------------------|----------|-------|
| 2012/0997 | Adv – Land between Netheravon Road & Durrington | WR | Delegated | Part Allow Part Dismiss | No | No |
| S/2012/0826 | Butt of Ale, Sunnyhill Road, Salisbury | WR | Committee | Allowed | Yes | No |

New Appeals

| Application Number | Site | Appeal Type | Application Delegated/ Committee | | Overturn | Costs Applied for? |
|--------------------|--|-------------|----------------------------------|--|----------|--------------------|
| S/2011/1566 | Castle Works Castle Road Salisbury | WR | Committee | | Yes | |
| S/2012/1483 | Elcombe Farm Bungalow Alvediston | Hearing | Delegated | | No | No |

WR Written Representations
HH Fastrack Householder Appeal
H Hearing
LI Local Inquiry
ENF Enforcement Appeal

8th April 2013

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Agenda Item 8

INDEX OF APPLICATIONS ON 18th APRIL 2013

1

Application No: S/2013/0056/Full
Site Location: Stonehenge Campsite, Berwick St. James, Salisbury. SP3 4TQ
Development: Change of use of land to touring caravan and camping site (amended proposal to planning permission S/2010/0007/FULL incorporating use of pitch 6 as either a caravan pitch or the stationing of a motor home/caravan/pod for occupation by the senior site warden and use of pitch 7 (between 1st April -30th September in any year) as either a caravan pitch or the stationing of a motorhome/caravan/pod for occupation by assistant wardens in association with the management of the existing campsite)
Recommendation: Approve with Conditions **Division** Cllr Ian West

2

Application No: S/2012/0521/Full
Site Location: Old Sarum House, Portway, Old Sarum, Salisbury. SP4 6BY
Development: Construction of a three storey, 120 bedroom care home (72 specialist nursing beds and 48 dementia beds) including associated site works, landscaping and car parks.
Recommendation: Approve with Conditions **Division** Cllr Ian McLennan

3

Application No: S/2013/0020/Full
Site Location: 37 York Road, Salisbury. SP2 7AT
Development: Convert 3 bed dwelling to 1 bed ground floor flat and 2 bed first floor flat
Recommendation: Approve with Conditions **Division** Cllr Richard Clewer

4

Application No: S/2013/0279/Full
Site Location: 12 Burford Avenue, Salisbury. SP2 8AG
Development: Single storey rear extension and first floor side extension
Recommendation: Approve with Conditions **Division** Cllr Brian Dalton

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REPORT TO THE SOUTHERN AREA COMMITTEE

| | | | |
|---------------------------------|--|-----------------------|----------------------------------|
| Date of Meeting: | 18 th April 2013 | | |
| Application Number: | S/2013/0056/Full | | |
| Site Address: | Stonehenge Campsite, Berwick St James, Salisbury, SP3 4TQ | | |
| Proposal: | Change of use of land to touring caravan and camping site (amended proposal to planning permission S/2010/0007/FULL incorporating use of pitch 6 as either a caravan pitch or the stationing of a motor home/caravan/pod for occupation by the senior site warden and use of pitch 7 (between 1st April -30th September in any year) as either a caravan pitch or the stationing of a motorhome/caravan/pod for occupation by assistant wardens in association with the management of the existing campsite) | | |
| Applicant / Agent: | Mr Grant / Mr Allen | | |
| City/Town/Parish Council | Winterbourne Stoke | | |
| Electoral Division | Till & Wylie Valley | Unitary Member | Councillor Ian West |
| Grid Reference: | Easting: 407378 | | Northing: 140538 |
| Type of Application: | Small Scale Major | | |
| Conservation Area: | Cons Area: NA | | LB Grade: NA |
| Case Officer: | Mrs Lucy Minting | | Contact Number: 01722 434 377 |

Reason for the application being considered by Committee

There are a number of planning applications relating to this site before the Council at this time. For this reason the Area Development Manager considers it appropriate for them all to be considered by the South Area Planning Committee.

This application was deferred by the Committee at its last meeting to enable officers to consider possible ways of limiting the type and/or size of 'caravans' that may be stationed on the site.

1. Purpose of report

To consider the above application and the recommendation of the Area Development Manager that planning permission be **Granted** subject to conditions.

2. Report summary

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

- Planning appeal decision
- Principle - Annex A PPS7
- The effect on the character and appearance of the locality including its effect on the special landscape area within which the site is located and the nearby Winterbourne Stoke Conservation Area
- The effect on the living conditions of occupants of nearby dwellings
- Economic benefits

The application has generated comments from 2 parish councils; 17 letters of objection, 1 letter of comment, and 7 letters of support from the public.

3. Site Description

The site forms part of Stonehenge Campsite which is located between Winterbourne Stoke and Berwick St James. The campsite is outside of a housing policy boundary and is therefore within 'open countryside' designated as a Special Landscape Area and is adjacent to the Winterbourne Stoke Conservation Area.

Planning permission was allowed at appeal for 'Change of use of land to touring caravan and camping site, including retention of access, driveway, hardstandings, shower/wc block, chemical toilet disposal area, cess pit and electric hook-up points.'

The campsite is divided into three distinct parts comprising an upper paddock, closest to the Berwick Road, a middle paddock, and a levelled lower section closest to the river.

The lower section has permission for the stationing of 15 caravans all year round and contains hard surfaced standings used as caravan pitches, the stationing of a Fox Pod and an E-Den Pod, as well as various associated facilities in connection with the campsite including an existing shower/toilet block.

4. Relevant Planning History

| Application number | Proposal | Decision |
|--------------------|---|--|
| 213 | Re-building of shed & piggeries | AC 01.06.50 |
| TP/59 | Construction of new access to highway | AC 27.06.51 |
| TP/226 | Site chosen for the erection of house or bungalow | AC 12.10.55 |
| S/2010/0007 | Change of use of land to touring caravan and camping site, including retention of access, driveway, hardstandings, shower/wc block, chemical toilet disposal area, cess pit and electric hook up points | Refused 11.05.2010 Allowed at appeal 11.11.2011 |
| S/2012/0132 | Erection of timber post and rail fence of 1.1m high along part of the western boundary of the site. | AC 03.05.2012 |

5. Proposal

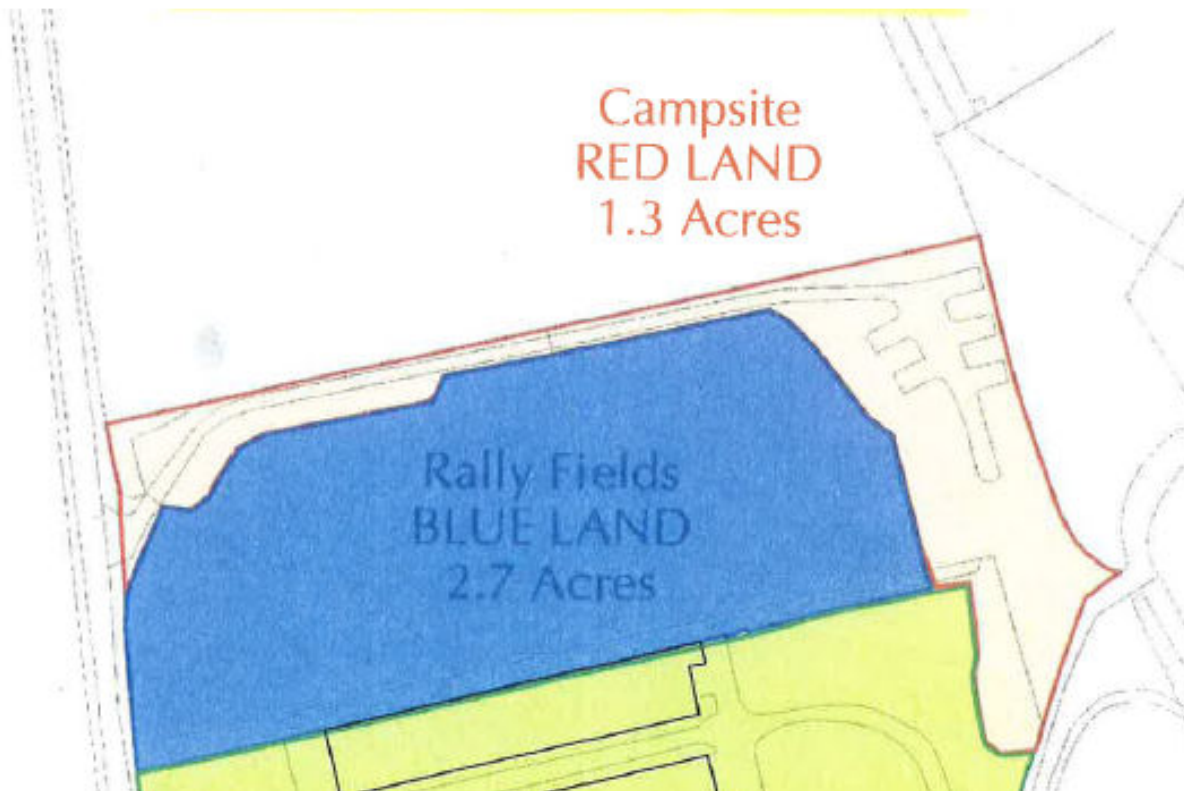
5.1 Background

As the Committee is aware, the original planning permissions relating to Stonehenge Campsite were given at appeal. The relevant element of the appeal relating to the caravan site was described in the appeal decision as "... the retention of access, driveway, hardstandings and change of use of land to a touring caravan site".

The appeal inspector added a condition to control the number of caravans on the levelled lower section of the campsite as follows:

(2) The land notated as "Campsite/Red Land" on drawing WGDP 01* shall only be used to accommodate a maximum of 15 caravans on any day of the calendar year.

(* - see extract from drawing WGDP 01 below).



The entire basis for planning permission being required for a caravan site rests on Section 55(1) of the Planning Act where it is stated that “the making of any material change in the use of any building or other land” is development. A conventional caravan structure (which includes caravans capable of being towed, motorhomes and campervans) which may be located, or stationed, on a caravan site is not development because of its mobility, and so for the purposes of planning law conventional caravans have the status of chattels. If a caravan is adapted by the addition of foundations, brick skirts or other permanent additions or is affixed to the land then this would indicate that it is meant to be a permanent fixture and it is possible to infer that fresh development has occurred.

The maximum length of caravan that may be towed on British roads by a car (with a Gross Vehicle Weight not exceeding 3.500kg) is 7 metres and the maximum width for towing caravans on the road is 2.55 metres. Caravans over 7m (23') long MUST be twin axle and towed by a vehicle exceeding 3500kg.

A statutory definition of a caravan is to be found in the Caravan Sites and Control of Development Act 1960 as supplemented by the Caravan Sites Act 1968. The 1960 Act states that a “caravan “means any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer) and any other motor vehicle so designed or adapted, but does not include a) any railway rolling stock which is for the time being on rails forming part of a railway system, on b) any tent. Units of not more than two sections, constructed or designed to be assembled on site by means of bolts, clamps or other devices and not exceeding 20m in length, 6.8m in width, and 3.05m in height are included within the definition as modified by the 1968 Act.

5.2 Legal considerations

In view of the difference between the wording in the description of the original planning application that referred to ‘touring caravans’ and that in condition 2 which only referred to ‘caravans’, legal advice was sought to understand the extent of any limitation on the type of caravan that may be stationed on the land.

The Council took the view that the permission should be interpreted as permitting use of caravans within the statutory meaning.

However at the last committee meeting it was confirmed that the interested parties had obtained their own legal advice that the Council had erred in its interpretation and the Council's internal legal unit were considering the matter further. The Council has now received its own advice from Counsel, which is summarised as follows:

- There is ambiguity on the appeal decision notice as to what was permitted on the basis that the description of the development refers to touring caravan but the conditions only refer to caravan.

- Although the decision notice including conditions should be read as a whole, a condition can only limit or restrict a development – it cannot enlarge it. It follows therefore that the statutory definition of caravan cannot be applied to the condition as this would widen the grant of the development over and above use of the land for touring caravans.

- The Inspector in the decision notice stated that the proposed development fell within policy T9 of the SDLP which refers to the establishment of site for touring caravans and tents and Counsel therefore felt that the Inspector had turned his mind to the fact that it was use as a touring caravan site being provided

The appeal permission should therefore be interpreted as permitting the use of the land for touring caravans, not caravans within the statutory meaning of the word.

5.3 Material change of use

As set out above the making of any material change in the use of a building or other land is development. It follows from this that the making of any change which is not material will generally not be development, and won't require planning permission.

Two of the 15 pitches are currently being occupied by pods which are similar in terms of their size and use (and impact) to touring caravans and by reason of their limited number are not considered to amount to a material change in use from a touring caravan site. Should additional or larger pods be introduced, or the pods (or any caravan on the site) become affixed to the land, connected with water, electricity, telephone and other essential services for permanent dwellings; or should the nature of their occupation move away from holiday accommodation only, then the Council would review its position. Such changes are likely to amount to development and thereby require permission.

The introduction of self-contained static mobile homes (whether being used for holiday-making purposes or as more permanent residential accommodation), would change the character of the land and the nature of its use, being substantially bulkier and permanently located. Static mobile homes would, therefore, require planning permission, being a material change in use from a touring caravan site.

5.4 The current planning application

The extant planning permission permits use of the site as a touring caravan site. Changing the caravan types from small touring caravans being used for holiday-making to larger touring caravans or motorhomes or campervans being used for holiday-making would not amount to a material change of use. The current application effectively seeks an amendment to the extant planning permission to allow two pitches on the site to be used to station caravans on a more permanent basis for long term occupation by wardens. This

requires planning permission for the reasons set out above – that is, the proposal is a material change to the use granted by the original planning permission.

This full application was submitted to allow pitch 6 to be used as either a caravan pitch or for the stationing of a motor home/caravan/pod for occupation by the senior site warden(s) all year round; and for pitch 7 to be used as either a caravan pitch or for the stationing of a motorhome/caravan/pod for occupation by assistant warden(s) between 19th March – 30th September in any year in association with the management of the existing campsite.

To ensure any later permissions do not render the earlier permission/conditions ineffective in the area occupied by the warden accommodation units a full application is required.

6. Planning Policy

Adopted Salisbury District Local Plan saved policies, including the saved policies listed in Appendix C, of the Adopted South Wiltshire Core Strategy:

G1 – General principles for development
G2 – General criteria for development
C2 – Development in the countryside
C6 – Special landscape area
CN11 – Views in and out of conservation areas
T9 – Touring caravans and tents
T7 – Tourist accommodation in the countryside
H23 - Development in the countryside
H27 - New agricultural worker dwellings

Government Guidance:

NPPF

Annex A to PPS7

Good Practice Guide for Planning & Tourism.

7. Consultations

Wiltshire Council Landscape Officer

The issues raised by this application do not have any direct landscape impacts and therefore no objections.

Environment Agency

No objections.

Wiltshire Council Highways

No highway objections - it is considered that the proposed development will not detrimentally affect highway safety.

Wiltshire Council Private Sector Housing - Caravan Licensing

The legislation controlling caravan sites would not preclude the site license from being varied in line with the planning proposal. The presence of a resident warden would not be out of keeping with the objectives of the licensing regime which is made in the interest of

the persons staying on the site and the public at large. The advantages of such an arrangement - health and safety, security and controlling activities on sites - is recognised by the Caravan and Camping Club and the Caravan Club where site management of their sites is generally achieved by having site wardens stay in their own touring caravans or motor homes.

It would be recommended that should the planning permission be granted that any site warden would have their principal home elsewhere. This might be evidenced by the provision of a copy of the wardens' council tax demand.

It is noted that the planning permission request is for an assistant site warden between 1st April and 30th September. Given that Easter is a busy time and that the date of this public holiday is variable it may be in keeping to consider varying the date that the assistant warden takes up residence. For example to change the start date to either the weekend before Easter or 19th March which is stated in the Inspector's report for the date that tent camping can begin.

8. Publicity

The application was advertised by site notice, press advert and neighbour consultation.

17 letters of objection received. Summary of key relevant points raised:

- There is no requirement for full time on site residency – Non residential wardens can provide the services/duties required on a daily basis/shifts.
- Permanently/semi-permanently sited caravans or similar are contrary to the Inspectors report - the Inspectors decision refers to touring caravans and camping (paragraph 72) only. He did not give permission for a part residential site for accommodating site wardens.
- Gradual move to a potential permanent site which will no longer be a site of a temporary nature.
- Residents have challenged the council's decision to allow the stationing of two pods on the site.
- The site can be managed by the owners living on site
- The owners could provide 24 hour site coverage over and above warden duties, and during the off and low season periods
- Owner should limit visitor numbers to avoid need for wardens
- There is no requirement or justification for full time warden during off and low season periods when the site is underused
- Temporary staff can be hired for busy periods/days
- Wardens could live in rental properties locally
- New arrivals access to the site is restricted after 9pm
- The site can be inspected and all management functions can be undertaken remotely using modern technology (on-line booking, website, facebook/twitter sites, accountancy).
- Wardens can live off-site - located close to the villages of Winterbourne Stoke and Berwick St James, regular bus service and a bus stop have been located at the site entrance
- Suggest a heated shed for wardens in order to provide a comfortable area for paperwork duties
- The Management Report submitted with the application refers to other nearby operators who have onsite wardens needs to be verified, is misleading and comparisons can't be drawn

- The owner of Stonehenge Touring Park lives on site and does not have an on-site warden
- Brades Acre, Alderbury, Summerlands, Hillcrest and Coombe Caravan Park all have owners living on site, not residential wardens.
- Brokerswood is a large country park and cannot be compared
- Hudsons Field is a larger site publically owned by the City Council and requires wardens
- The campsite is in breach of the Planning Appeal decision conditions 10 and 11 and permission should be withdrawn.
- Development of the site has reached the strict limitation set out in policy C2
- Site continues to expand the impact of the development on the local environment and rural landscape
- Site is visible from both road and footpaths
- Why is application not retrospective – wardens have been living on the site
- Number of retrospective applications submitted and conditions/site is not being enforced
- Not supported locally
- Permanent warden would enhance the management of the site and would appeal to tourists but
- Contrary to policy C6 - residential status to two pitches and siting a permanent residential caravan or pod will adversely impact on the landscape designated as a special landscape area.
- Impact on landscape will be significant.
- Screening the site admits the effect of the proposals on the landscape.
- Materials of the proposals are poor quality and don't reflect character of area
- Proposals will reduce site capacity and economic viability and financial contribution to the local economy
- Concerns about future development and expansion plans on what used to be agricultural land - policy H32 allows the establishment of permanent dwelling/s. Temporary accommodation may end up as permanent fixtures/open way for permanent caravan park/mobile homes/housing
- Policies H26 and H28 (agricultural dwellings) have no relevance
- Proposal has no support within the Wiltshire Council Core Strategy policies
- Contrary to policy E21 (preventing development for employment purposes in the open countryside)
- Site provides no disabled access – contrary to equalities act 2010
- Campsite is an attractive place to stay but inappropriate in the open countryside
- Any site warden should have his/her principal home elsewhere
- Wardens control people visiting the site but are two sufficient

7 letters of support received. Summary of key relevant points raised:

- It is important to have a 24/7 live-in warden. Campsite users often arrive after dusk and the warden will increase security (to deal with problems or emergencies and well-being of campers – reassuring and helpful) and control of the campsite
- Campsites need facilities such as warden accommodation
- Local campsites have live in wardens/managers/owners
- The camping/caravan and 'glamping' market is growing at rapid pace
- The campsite generates jobs and income back into the area (tourists generate income for other local businesses)
- Will improve campsite and encourage people to return/economic benefit
- Stonehenge visitor centre will increase demand

Berwick St James Parish Council

A village meeting, attended by 17 residents, was held at Berwick St James on 6 February 2013 to discuss the above planning application. The residents were reminded that this application was not about the employment of wardens for the campsite, but about the establishment of permanent accommodation for their use. To this end, the meeting had strong objections to the proposal for a 'Change of Use of Land' to the original planning permission S/2010/0007/FULL, and establish up to two existing caravan pitches and use of a motor home/caravan/pod for permanent accommodation on the site for the following 4 reasons:

1. The application is contrary to policy C2 which states that development in the countryside should be strictly limited and will not be permitted unless it would benefit the local economy and maintain and enhance the countryside.
2. The application is contrary to policy C6 which states that within a 'special landscape area' proposals for development will be considered having regard to the high quality of the landscape. The meeting considered that 'permanent' 'residential' pitches do not achieve this, and were both undesirable and unnecessary.
3. The application is contrary to policy H32. The meeting did not consider that the same criterion as for permanent housing was desirable or necessary on this site.
4. The application is contrary to policy H28. The meeting did not consider that there was a need for accommodation in support of countryside tourism on this site similar to that of agricultural workers, and indeed thought it highly desirable.

The vote, taken to object to this planning proposal for the above reasons for unanimous.

9. Planning Considerations

9.1 Planning Appeal decision

The Inspector's decision to S/2010/0007 is attached at appendix A.

The Inspector considered that the main issues to consider were:

- The effect on the character and appearance of the locality and effect on the Special Landscape Area (SLA) and nearby Conservation Area - The Inspector considered that there are only limited views of the site from nearby residential properties and that in the medium to long term these would reduce as existing and proposed landscaping matured and that with conditions to secure the landscaping and control the extent of the camping and caravanning; the 'harm to the character and appearance of the locality including the SLA would not be material.'
- The effect on the living conditions of occupants of nearby dwellings - The Inspector considered that subject to conditions limiting the area for and numbers of tents and caravans together with limitations on firepits, amplified and non-amplified music and additional landscaping; the development 'would not be material harmful to the living conditions of occupants of nearby dwellings.'
- Economic benefits - The inspector considered that the development 'accords with PPS4 (policy EC7) which urges Councils to support sustainable rural tourism and leisure development to help deliver the Government's tourism strategy.'

Objections have been raised that the owner has failed to comply with time-limited conditions attached to the appeal decision concerning lighting and landscaping and that the permission for the campsite has been revoked.

Whilst the owner submitted details on lighting and landscaping, they were not provided within the required timescale. As a result in May, following legal advice provided to the owner, the Council took its own advice from Counsel on the status of the permissions granted by the appeal Inspector.

Counsel's advice was that the permissions have not lapsed although the owner is in breach of the lighting and landscaping conditions. It was recommended that the appropriate solution is for the owner to submit an application under Section 73 of the 1990 Act for planning permission for the development of land without complying with the extant landscaping and lighting conditions. These have been received.

9.2 Principle of development

The NPPF makes it clear that planning law requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise. Proposed development that conflicts with an up-to-date local plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise.

Paragraph 55 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.*'

Policy H23 of the local plan says that undeveloped land outside of settlement boundaries will be treated as countryside for the application of other housing policies. Policy H27 permits new permanent agriculture and forestry workers dwellings where 4 criteria are met (i) functional need, (ii) full time requirement, (iii) a financial test, and (iv) available other accommodation in the area.

PPS7 gives specific guidance regarding agricultural dwellings in Annex A, which continues to apply. Paragraph 3 deals with agricultural dwellings, which must satisfy 5 criteria – namely, (i) a functional need, (ii) relate to a full-time worker (iii) a financial test, (iv) whether the need could be met by another dwelling on the site and (v) other planning requirements. It is accepted good practice to apply these 'tests' to proposals for residential accommodation to support a rural enterprise in addition to agricultural dwellings.

Paragraph 4 of Annex A defines functional need to be whether it is essential for the proper functioning of the enterprise for a worker to be readily available at most times - for example, if workers are needed to be on hand day and night.

Third party objections raised (summarised above) include that there is no functional need for on-site/year round accommodation for wardens and that the site could instead be managed by the owner who could provide 24 hour coverage through living in the adjacent site.

There are no dwellings on the campsite. The owner of the campsite currently lives in Summerfield House adjacent to the campsite. However, there is no requirement in the planning appeal decision for the owner/occupier of this dwelling to also be the site warden.

The application documentation states there is a *'identifiable need for warden accommodation on-site in order that the operation itself runs successfully and efficiently both in terms of administration and more importantly in terms of on-site management'*.

The Council's caravan licencing officer has advised *'that the presence of a resident warden would not be out of keeping with the objectives of the licensing regime which is made in the interest of the persons staying on the site and the public at large. The advantages of such an arrangement, health and safety, security and controlling activities on sites, is recognised by the Caravan and Camping Club and the Caravan Club where site management of their sites is generally achieved by having site wardens stay in their own touring caravans or motor homes.'*

Third party objections also include that there may not be a financial justification. The application documentation demonstrates that the site is now a *'well established existing tourist accommodation enterprise which operates on a sound financial basis.'*

Subject to conditions limiting occupation and type of accommodation, the proposal for a full time warden and a temporary warden during the tented camping season is considered to be acceptable in principle, satisfying the functional need, the financial need and the full time need tests. This is subject to consideration against the issues the inspector identified.

9.3 The effect on the character and appearance of the locality including its effect on the special landscape area within which the site is located and the nearby Winterbourne Stoke Conservation Area

The Inspector considered that there are only limited views of the site from nearby residential properties and that in the medium to long term these would reduce as existing and proposed landscaping matures; and that with conditions to secure the landscaping and to control the extent of the camping and caravanning, the *'harm to the character and appearance of the locality including the SLA would not be material.'* These circumstances have not changed, and by virtue of the modest scale of the proposed accommodation, it is not considered that harm would be caused to the character and appearance of the locality.

The Wiltshire Council Landscape Officer has raised no objections to the proposal.

9.4 The effect on the living conditions of occupants of nearby dwellings

The Inspector considered that subject to conditions limiting the area for, and numbers of, tents and caravans together with limitations on firepits, amplified and non-amplified music and additional landscaping, the development would not be materially harmful to the living conditions of occupants of nearby dwellings. Again, by virtue of the modest scale of the current proposal and the distances between the sites and the neighbouring properties, it is not considered that any harm would be caused to residential amenity by the provision of wardens' accommodation. This is subject to re-imposition of the conditions required by the Inspector.

9.5 Economic benefits

Paragraph 48 of the inspectors report refers to the economic benefits resulting from the development including the creation of one full time equivalent job and visitor-spend in the area.

The application will provide a full time and part time employment opportunity.

9.6 Conditions

The conditions from the appeal permission should be carried forward and amended as necessary.

The details for condition 12 (alarm system) were approved on 21st October 2011, so this can be amended to refer to its retention and maintenance.

Condition 14 on the Inspector's decision requiring removal of fencing was the subject of further consideration under planning application reference S/2012/0132/FUL for a 1.1m high fence along the western boundary. This application was approved subject to a condition requiring removal of the existing fence. An enforcement officer has verified that the fence at issue has been removed.

Having regard to the considerations set out above and the nature of the proposal, in the event of planning permission being given the warden's caravans would be limited by the terms of the application and planning permission to touring type caravans/motorhomes/campervans only. Later substitution of these types of caravan by more substantial caravans, such as mobile homes, would change the character of the land and the nature of its use to such an extent to amount to a further change of use requiring planning permission in its own right. For this reason no further control is necessary by planning condition or obligation. An informative has been added advising the applicant of the type of caravans that are permitted on the site.

10. Conclusion

Subject to conditions, the development will not cause any demonstrable harm to interests of acknowledged importance, in particular in terms of the impact on the character and appearance of the area or the living conditions of nearby properties. Residential accommodation for wardens is justified in this case based on demonstrated functional, financial and full time needs. There is no other suitable accommodation available to fulfil the needs.

11. Recommendation

Planning Permission be GRANTED for the following reason:

The Council is required to give a summary of the reasons for this decision and its conditions, and a summary of the development plan policies and proposals relevant to the decision and its conditions. These are set out below:

The decision to grant planning permission has been taken on the grounds that the proposed development would not cause any significant harm to interests of acknowledged importance and having regard to the National Planning Policy Framework and the following policies in the South Wiltshire Core Strategy, namely policies:

- G1 – General principles for development
- G2 – General criteria for development
- C2 – Development in the countryside
- C6 – Special landscape area
- CN11 – Views in and out of conservation areas
- T9 – Touring caravans and tents
- T7 – Tourist accommodation in the countryside
- H23 - Development in the countryside

H27 - New agricultural worker dwellings

In accordance with paragraph 187 of the National Planning Policy Framework, Wiltshire Council has worked proactively to secure this development.

Subject to the following conditions:

1. The development shall be carried out strictly in accordance with the approved plans (Site location Plan, Planning application plan: PV 316/WFG/TA, Landscape Plan 2010 and drawing WGDP 01).

Reason: For the avoidance of doubt.

2. The land notated as "Campsite/Red Land" on drawing WGDP 01 shall only be used to accommodate a maximum of 15 caravans on any day of the calendar year. Pitch 6 (identified on the 1:1250 site plan received on the 31st December 2012) can be used as either a caravan pitch or for the stationing of a caravan for occupation by the senior site warden and between 19th March – 30th September in any year, pitch 7 (identified on the 1:1250 site plan received on the 31st December 2012) can be used as either a caravan pitch or for the stationing of a caravan for occupation by assistant wardens in association with the management of the existing campsite.

Reason: To protect the visual amenity and character of the area and also help to safeguard the living conditions of nearby dwellings.

Policy: G1, G2, C6, C2, CN11, T9

3. No amplified music to be played or broadcast at any time on any day of the calendar year on the land notated "Campsite/Red Land" or land notated as "Rally Fields/Blue Land" on drawing WGDP 01.

Reason: To prevent noise and disturbance to nearby residents of the site.

Policy: G2

4. No music to be played after 2300 hours on any day of the calendar year on the land notated "Campsite/Red Land" or land notated as "Rally Fields/Blue Land" on drawing WGDP 01.

Reason: To prevent noise and disturbance to nearby residents of the site at unsociable hours.

Policy: G2

5. The use of the land for tented camping shall be strictly limited to that part of the site within the area notated as "Rally Fields/Blue Land" on drawing WGDP 01 and shall be used only in connection with the use of the area notated as "Rally Fields/Blue Land" as a whole. No caravans, motorhomes, campervans or other vehicle or structure adapted for human habitation which would fall within the definition of a caravan shall be stationed or parked on this land, which shall not be used for any camping other than for tented camping purposes between 19th March and the 30th September inclusive within any calendar year. That part of the application land within the area notated "Rally Fields/Blue Land" on drawing WGDP 01 shall be used only in connection with the use of the area notated as "Rally Fields/Blue Land" as a whole for

a maximum of 20 tents on any day within the time period specified above, save for 10 days when a maximum of 100 tents and also a maximum of 40 tents on 14 additional days can be stationed within the period prescribed above. For the avoidance of any doubt, any day or part thereof when a tent or tents are stationed on the land or when activities incidental to camping are continuing (for example, the stationing of portaloos) is to be regarded as a day's use for the purposes of this condition.

Reason: To protect the visual amenity and character of the area and also help to safeguard the living conditions of nearby dwellings.

Policy: G1, G2, C6, C2, CN11, T9

6. Notwithstanding the provisions of any Class of the Schedule to Town and Country Planning General Permitted Development Order 1995 (or any order revoking and re-enacting that order with or without modification), there shall be no stationing of any tents on any part of the land other than on the area referred to as Rally Fields/Blue Land on drawing WGDP 01 or within the approved caravan site, and there shall be no stationing of caravans outside of the approved caravan site.

Reason: To protect the visual amenity and character of the area and also help to safeguard the living conditions of nearby dwellings.

Policy: G1, G2, C6, C2, CN11, T9

7. A maximum of 10 fire pits shall be permitted within the land notated as "Rally Fields/Blue Land" on drawing WGDP 01 within the site and no other fires (excluding domestic barbecues and domestic garden/maintenance fires) shall be lit within any part of the site.

Reason: To prevent noise and disturbance to nearby residents of the site.

Policy: G2

8. The applicant/site manager shall keep an up-to-date written record of all persons visiting the site for the purposes of recreation and the number of caravans and tents there on any day. The written record shall be maintained made available to the local planning authority for inspection at reasonable notice.

Reason: To support the other conditions.

9. There shall be no vehicular access and egress to and from the land used for tented camping from the southernmost vehicular access to the site (adjacent to Over the Hill).

Reason: To safeguard the living conditions of the occupants of Over the Hill.

Policy: G2

10. Within three months of the date of this decision, a scheme of external lighting shall be submitted to the local planning authority for approval in writing. Details shall include the type of light appliance, the height and position of fitting, illumination levels, details of measures to reduce light pollution including any external cowls, louvres or other shields to be fitted to the lighting and a programme for implementation. Development shall be carried out in accordance with the approved details and programme of implementation and maintained as such thereafter. Other than those agreed, there

shall be no further lighting of the site, unless otherwise agreed through a new planning permission.

Reason: In order to safeguard visual amenity.

Policy: G1, G2, C6, C2, CN11, T9

11. All landscaping shall be carried out in accordance with the Stonehenge Campsite Landscape Management Plan 2009-2014 (dated 10th October 2012, reference WFG/TA/10.10.11) and the Detailed Planting Proposals 2009-2014 (dated 16/11/2012, reference 390-11 Rev A) accompanying planning application S/2012/1777 subject to the following amendments:

- a) Paragraphs 5.4, 5.5 and 5.6 are replaced as follows:

The first phase will be undertaken at some point between years 2 and 5 (where year 1 is 2009). The first phase will include removal of the 6 individual conifers along the eastern part of the boundary and 9 of the trees in the solid tree belt. This will open up gaps in the existing planting, allowing light in and allowing the establishment of broadleaf species.

In the longer term (that is, between years 10 and 12 unless otherwise agreed in writing by the local planning authority), the remaining conifers will be removed and the gaps will be planted with further broadleaf woodland planting.

- b) Paragraph 5.12 which refers to the woodland mix and the associated table is amended to exclude the use of non-native species of Corsican Pine, Larch, Thuja or Evergreen Holm Oak (*Quercus ilex*) or Scots Pine (*Pinus Sylvestris*). Where already planted, these shall be removed within 3 months of the date of this decision, with the exception of the 10 Scots Pine (*Pinus Sylvestris*) already planted which shall be removed by 31st March 2018.
- c) The planting key on the Detailed Planting Proposals plan is amended to exclude the use of non-native species of Corsican Pine, Larch, Thuja or Evergreen Holm Oak (*Quercus ilex*) or Scots Pine (*Pinus Sylvestris*). Where already planted, these shall be removed within 3 months of the date of this decision, with the exception of the 10 Scots Pine (*Pinus Sylvestris*) already planted which shall be removed by 31st March 2018.

The approved landscape management plan shall be implemented in full in accordance with the approved timetable.

Reason: To ensure adequate landscaping in order to safeguard visual amenity.

Policy: G1, G2, C6, C2, CN11, T9

12. The approved alarm system that has been fitted to the cesspit providing warning against overflowing and was agreed in writing by the local planning authority on the 21st October 2011 shall be retained and maintained.

Reason: To help prevent pollution to watercourses.

Policy: G2

13. The visibility splays of 4.5m x 75m across the site frontage measured from the centre line of the access adjacent to the northern site boundary shall be maintained permanently free obstruction above a height of 300mm.

Reason: In the interests of highway safety.

Policy: G2

14. The occupation of the wardens' accommodation units hereby approved shall be limited to persons solely or mainly employed as wardens in the Stonehenge Campsite business occupying the plot edged red on the attached plan.

Reason: The site lies within an area where planning permission would not normally be granted for development unrelated to the essential needs of the established business for which staff accommodation is now required and this permission is only granted on the basis of an essential need for residential accommodation in this location having been demonstrated.

Policy: H23, H27

INFORMATIVE:- The type of caravans permitted on the site:

The permitted use of the land is for touring caravans, not caravans within the statutory meaning of the word.

The maximum length of caravan that may be towed on British roads by a car (with a Gross Vehicle Weight not exceeding 3.500kg) is 7 metres and the maximum width for towing caravans on the road is 2.55 metres. Caravans over 7m (23') long MUST be twin axle and towed by a vehicle exceeding 3500kg.

Changing the caravan types from small touring caravans being used for holiday-making to larger touring caravans or motorhomes or campervans being used for holiday-making would not amount to a material change of use.

Two of the 15 caravan pitches are currently being occupied by pods (a Fox Pod and an Eden Pod) which are similar in terms of their size and use (and impact) to touring caravans and are not considered to amount to a material change in use from a touring caravan site. Should additional or larger pods be introduced, or the pods (or any caravan on the site) adapted by the addition of foundations, brick skirts or other permanent additions, connection with water, electricity, telephone then this would indicate that it is meant to be a permanent fixture and amount to a material change requiring planning permission. The introduction of permanently sited touring caravans to be occupied by wardens changes the nature of the existing use to such an extent to amount to a material change of use, hence this planning application.

Similarly, the introduction of self-contained mobile homes (whether occupied by wardens or holiday makers), would change the character of the land and the nature of its use, being substantially bulkier and permanently located. Mobile homes would, therefore, require planning permission, being a material change in use from a touring caravan site.

Appeal Decisions

Inquiry held on 17-18 May 2011

Site visit made on 19 May 2011

by **K Nield BSc(Econ) DipTP CDipAF MRTPI**

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

Decision date: **11 July 2011**

Appeal A Ref: **APP/Y3940/C/10/2139334**

Land at Stonehenge Campsite/Summerfield House, Berwick Road, Berwick St. James, Wiltshire, SP3 4TQ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr W F Grant against an enforcement notice issued by Wiltshire Council.
- The Council's reference is S/2010/1661
- The notice was issued on 24 September 2010.
- The breach of planning control as alleged in the notice is without planning permission, the use of the land for temporary events (in particular the use as a temporary camping site for the stationing and human habitation of tents) in excess of that permitted by Part 4, Class B of the Town and Country Planning (General Permitted Development) Order 1995.
- The requirements of the notice are:
 - (a) Remove any tents stationed on the Land in excess of that permitted by Part 4, Class B of the Town and Country Planning (General Permitted Development) Order 1995; and
 - (b) Cease permanently the use of the Land for temporary events, in particular the use as a temporary camping site for the stationing and human habitation of tents, in excess of that permitted by Part 4, Class B of the Town and Country Planning (General Permitted Development) Order 1995.
- The period for compliance with the requirements is one month from the date the notice takes effect in respect of both (a) and (b) above.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (e) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The enforcement notice is quashed and planning permission is granted as set out in the Formal Decision below.

Appeal B Ref: **APP/Y3940/C/10/2142020**

Land at Stonehenge Campsite/Summerfield House, Berwick Road, Berwick St. James, Wiltshire, SP3 4TQ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr W F Grant against an enforcement notice issued by Wiltshire Council.
- The Council's reference is S/2011/0001.
- The notice was issued on 15 November 2010.
- The breach of planning control as alleged in the notice is: without planning permission, the carrying out of engineering and other operations on the land, including materially altering the landform by excavating and re-profiling the ground to form levelled areas; formation of hardstandings; formation of earth bunds and associated fencing; installation of a cesspool/waste disposal point and enclosing fencing, installing electrical

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hook-ups and lighting; materially altering the position of and widening an access onto a classified road and resurfacing and improvements to an existing track; partial construction of a new track, formation of a pathway and erection of a toilet block and washing up building.

- The requirements of the notice are:
 - (a) Permanently demolish all the hardstandings, remove the new vehicular access and track surfacing materials, pathway surfacing materials, cesspool/waste disposal point and associated fencing, lighting and electrical hook-up points from the Land;
 - (b) Return the excavated and re-profiled parts of the Land to its former landform, levels and profiles prior to development took place, i.e. to match that of the land immediately adjacent;
 - (c) Permanently demolish the toilet/shower block and washing up building and reinstate the land to its condition before development took place, i.e. to match the levels and profile of the land immediately adjacent;
 - (d) Reduce the height of the earth bunds and associated fencing so that where adjacent to Berwick Road as shown between the approximate points X-X on the plan attached to the Notice, the height of the bunds or the fences or their combined height does not exceed one metre;
 - (e) Permanently remove the partly constructed track formed between the approximate points Y-Y as shown on the plan attached to the Notice and reinstate the Land to its condition to match the levels and profiles that of the land immediately adjacent;
 - (f) Permanently remove all demolition materials arising from steps (a)-(e) from the Land;
 - (g) Re-seed all the reinstated areas with grass.
- The period for compliance with the requirements is 3 months in respect of items (a) – (f) listed above and 3 months or by the end of the next planting season following the date the notice takes effect, whichever date is the later of the two in the case of item (g) listed above. The planting season is stated by the Council to run from 1 November to 31 March the following year.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (e), (f) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The enforcement notice is quashed and planning permission is granted as set out in the Formal Decision below.

Appeal C Ref: APP/Y3940/A/10/2136994
Stonehenge Campsite, Berwick Road, Berwick St. James, Salisbury, SP3 4TQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by W F and S R Grant against the decision of Wiltshire Council.
- The application Ref S/2010/7/FULL, dated 24 December 2009, was refused by notice dated 11 May 2010.
- The development proposed is described as the retention of access, driveway, hardstandings and change of use of land to touring caravan site.

Summary of Decision: The appeal is allowed and planning permission is granted as set out in the Formal Decision below.

Application for costs

1. At the Inquiry an application for full costs in respect of Appeal B was made by Mr W F Grant against Wiltshire Council and in respect of Appeal C by W F and S R Grant against Wiltshire Council. The application is the subject of a separate Decision.

Procedural matters

2. At the opening of the Inquiry the appellants withdrew the appeals under ground (e) in respect of both Appeal A and Appeal B. No evidence was called in respect of those appeals by either party.
3. In respect of Appeal C the Council had amended the description to "*Change of use of land to touring caravan and camping site, including retention of access, driveway, hardstandings, shower/wc block, chemical toilet disposal area, cess pit and electric hook-up points*". As the appellants have applied this revised description in the appeal documentation and I consider it describes the extent of the development more fully I intend to determine the s78 appeal on that basis.
4. The oral evidence at the Inquiry was taken on oath.

The enforcement notices

5. There are some minor errors in the notice in respect of Appeal B. Within the requirements of the notice under sections (b) and (e) words appear to be omitted which reduce the clarity of the requirements. I can make corrections to the notice without injustice to the parties.

Preliminary matters

6. The parties submitted an agreed Statement of Common Ground (SCG) at the opening of the Inquiry. The SCG agreed relevant planning policy guidance applicable to the development and other matters including some agreed conditions.
7. The SCG also contained Plan WGDG 01 prepared to assist the description and assessment of the parts of the site as a whole. This termed the area to the north of the site comprising the access, track and main caravan site with laid out pitches as "Campsite" (or Red Land) on the Plan. A field area broadly to the south of the access and west of the Red Land is termed "Rally Fields" (or Blue Land) and a further area to the south of the Rally Fields is termed "Parkland and Summerfield" (or Green Land).
8. These descriptive terms are used, with some variation, throughout the evidence by both parties and have relevance to some of the matters agreed by the parties and suggested conditions. As this subdivision of the site assists with the description of the scheme I will apply those terms.
9. The plans attached to the two enforcement notices include all the above listed areas. However, the application site boundary for Appeal C includes all the Campsite area but only (the eastern) part of the Rally Fields.
10. There is a single appellant in respect of both Appeal A and Appeal B but two appellants in respect of Appeal C. For clarity in the overall decisions I shall use the term "appellants" throughout.

The appeal under ground (c) (Appeal B)

11. The appeal under ground (c) is that the matters described in the notice (if they occurred) do not constitute a breach of planning control. I noted at my visit, and it was not in dispute at the Inquiry, that the operational development comprising the alleged breach had occurred.

12. The appellants accept that several items of the alleged breach require planning permission. Broadly these comprise the toilet/shower block and washing up building, cesspool/waste disposal point and associated fencing, lighting and electrical hook-up points. The appellants have not raised matters under this ground in connection with these items of operational development itemised in the Appeal B notice where there is a breach of planning control.
13. The appellants' case under this ground is in respect of two matters identified in the alleged breach. Firstly, earth bunds with a mesh fence either side of the access, slightly inset from the site frontage with Berwick Road (B3083) and secondly in respect of an access track leading from Berwick Road into the site and providing vehicular and pedestrian access mainly to caravan pitches in the eastern part of the site.
14. The earth bunds are grassed with some additional landscaping. A green coloured flexible mesh fence has been positioned mainly along the forward face of the bunds which in some places exceeds the height of the bunds (but in other places does not). The combined effect of the bunds and fence is to form a means of enclosure to The Rally Fields and it also provides a partial visual screen into the site from the public domain along the highway. The bunds are inset from the highway by varying but fairly short distances. In the following assessment I shall describe the combined height of the bunds and where higher the fence as together comprising "the bunds".
15. There is some disagreement between the principal parties regarding the total height of the bunds. The Council has provided measurements from ground level at the edge of the highway indicating that the height varies from 1.1 metres (m) to 1.65m. The appellants have taken measurements from the mid-point of the highway where the camber is highest and indicate that the height of the bunds above that point vary from less than 1m to 1.32m. Without doubting their accuracy, I find the basis of the appellants' measurements from the camber to be rather contrived and I am more persuaded by the Council's measurements in providing a total height of the bunds.
16. The appellants contend that the bunds are permitted development under Part 2 Class A of Schedule 2 to the General Permitted Development Order 1995 (as amended) (GPDO). That permits "*The erection, construction, maintenance, improvement or alteration of a gate, fence, wall, or other means of enclosure*" subject to compliance with a number of specified criteria.
17. However, criterion (a) of Class A does not permit such development adjacent to a highway used by vehicular traffic where the height of any gate, fence, wall or means of enclosure exceeds 1m above ground level.
18. In this case although the bunds are inset slightly from Berwick Road they clearly perform a function of separating the appeal site from that highway. In the context of this site they act as a boundary to the highway. Notwithstanding their inset from the highway I consider that it is positioned adjacent to them. As they exceed 1m in height they are not permitted development under Part 2 Class A.
19. With regard to the access there is no dispute that until (at least) 2008¹ there was a simple grass farm track leading from Berwick Road. Additional photographs show that reasonably extensive engineering operations to remove

¹ Photographs in Appendices 3 and 11 of evidence of Stephen Hawkins

the surface and create a base and apply scalplings were undertaken. These works also appear to have widened the track (from its appearance in earlier photographs) and altered the position of its junction with Berwick Road.

20. Taken together those are engineering operations which cumulatively are significant in scale and exceed works that could reasonably be regarded as incidental to the provision of a means of access. As a matter of fact and degree, I find the proposed works beyond that which is permitted by Part 2 Class B, neither are they permitted by any other Class of the GPDO. The proposed works, in my opinion, are such that they fall within the meaning of "development" under s55 of the Act for which an express grant of planning permission is required.
21. In a ground (c) appeal the burden of proof lies with the appellants and since this has not been discharged in respect of the matters in dispute the appeal under ground (c) fails.

The appeals under ground (a) (Appeal A and Appeal B) and the s78 appeal (Appeal C)

Background

22. It is not in dispute that the areas termed "Campsite" and "Rally Fields", all formerly comprising agricultural land, have been used for camping and caravanning activities to varying degrees for some 2-3 years². The Campsite area initially contained 5 hard surfaced standings used with various facilities/buildings provided in connection with that use. This area previously contained a number of modest agricultural buildings now mostly demolished. Until December 2010 this area had certification firstly from the Caravan & Camping Club and then the Caravan Club to use that part of the site as a Certified Location.
23. The Rally Fields comprise two paddocks. The upper paddock (nearest Berwick Road) has been used for temporary touring and camping "events" under permitted development rights provided under Part 4 Class B of Schedule 2 and Part 27 of Schedule 2 to the GPDO. Use of the lower paddock for camping and caravanning took place when there was high demand such as around the summer solstice.

Main issues

24. There is no dispute between the parties that planning policies at both national and local level, whilst seeking (in general terms and subject to various criteria) the protection of the countryside from inappropriate development, support tourist related development in the countryside including the development of caravan and camp sites.
25. Saved policy T9 of the adopted Salisbury Local Plan (LP) is in line with the general thrust of SP³ policy RLT10 and policy EC7 in PPS4⁴. It is a permissive policy allowing the provision of new touring caravan/camping sites adjacent to the main holiday routes subject to a number of criteria. Amongst other matters the criteria require the site to be well screened from vantage points, highways and residential development and that trees and other landscaping are

² Evidence of Anthony Allen

³ Wiltshire and Swindon Structure Plan (SP)

⁴ Planning Policy Statement 4: Planning for Sustainable Economic Growth (PPS4)

planted within and around the site. In addition the policy requires that the use should not be detrimental to the amenities of residents of the area. The site of the appeals lies in close proximity to the A303 and the parties agree that it is a main holiday route as required by policy T9.

26. In the light of the above I consider that the main issues in these appeals are:

- (i) the effect on the character and appearance of the locality including its effect on the Special Landscape Area (SLA) within which the site is located and the nearby Winterbourne Stoke Conservation Area (CA),
- (ii) the effect on the living conditions of occupants of nearby dwellings through potential noise and disturbance, and
- (iii) whether other considerations including economic benefits outweigh any harm that is identified.

Reasons

Character and appearance

27. The appeal site adjoins the south-western extent of the CA which in that area comprises a meadow and other open land near the river. The parties agree that the proposed development preserves the elements of the setting and character of the CA that make a positive contribution to that heritage asset. I see no reason to differ. Consequently, there is no conflict with national policy HE 10 in PPS5⁵.
28. The wider area around the appeal site falls within both the Salisbury Plain West High Chalk Plain and the Wylde Chalk River Valley landscape character areas described in the Wiltshire Landscape Character Assessment. The appeal site is situated on the valley floor of the River Till.
29. A recent Landscape Character Assessment was undertaken for Salisbury District⁶. That indicates that the appeal site lies within Character Area A1: Till Narrow Chalk River Valley which is situated towards the north-east of Salisbury and running through adjacent areas of chalk downland (Area D). Within that area the overall condition of the landscape is good with moderate to high landscape character sensitivity and moderate visual sensitivity. I acknowledge that within the general description of the landscape character of the area there are pockets exhibiting some variation to the general landscape characteristics. I have noted the evidence of interested parties in this regard who pointed out some local variations in the area near the appeal site.
30. The appeal scheme contained proposals for enhancing the planting both at the site boundaries and within the site. The Council confirmed that this contained an appropriate mix and size of species for this location. The Council also confirmed that assumed growth rates to maturity for the suggested species were acceptable.
31. A detailed assessment of the visual effect of the cumulative effect of the appeal schemes from various viewpoints within the Till Valley and on the surrounding downland was undertaken by the appellants' landscape consultant. The Council's assessment was of a more limited nature. In addition, I was able to

⁵ Planning Policy Statement 5: Planning for the Historic Environment (PPS5)

⁶ Salisbury Landscape Character Assessment: Chris Blandford Associates (February 2009)

look at the site from various viewpoints at my site visit and reach my own conclusions on the visual effect of the schemes on the landscape.

32. In the main the appellants' photographic evidence, assessment, and its conclusions were not disputed by the Council. It was accepted by the Council that the visual envelope of the Campsite and Rally Fields areas is very limited with only a few areas of land in the public domain from which clear views of the site can be gained.
33. In the short to medium term persons using a public right of way alongside the River Till to the east of the site would be able to see (the upper parts of) caravans stationed in the nearest pitches alongside the eastern edge of the Campsite area although a steep embankment serves to restrict views into the site from the path. In the longer term planting within and outside the site would provide screening for much of the year.
34. Views into the proposed development in the Rally Fields would be gained from a section of the public right of way to the south-east of Summerfield House, and from a section of bridleway to the west of the B3083. In the medium term it would be possible to see substantial numbers of tents in the Rally Fields from the bridleway but views into that area would reduce towards the longer term due to growth in the landscaping that has taken place or is further proposed.
35. I agree with the Council that glimpses of tents in the Rally Fields would be gained from the hillside position of a byway to the east (Viewpoint 22). However, that would be at a distance of approximately 1.5 km from the site. At the time of my (spring) visit those views were restricted by vegetation and, as the photographic evidence indicates, they would not be prominent even in the winter time when there would be less leaf growth.
36. Views into the site from the B3083 are currently limited to a section of about 300m leading south from the A303. The site entrance, part of the access track and earth bunds with fencing would be clearly visible from the road. I am satisfied that planting of the earth bunds along the site frontage, some of which has taken place, would provide reasonable short term visual screening which would be enhanced over the medium term by additional planting such that only the top parts of tents in the upper paddock area of the Rally Fields would be visible. Over the longer term those views into the site would diminish further.
37. The parties agree that the fence along the bunds is prominent in some views and I do not differ in that respect. I consider that its removal, secured by a planning condition if all other matters are acceptable, would be in the interest of the visual amenity of the area.
38. Planting alongside the northern boundary would also provide substantial screening of the site from the B3083. The Council expressed doubts at the Inquiry that there was sufficient space between the access track and the site boundary to allow for sufficient plant growth. Although I saw on my visit that the width of the planting strip varied I consider that there is adequate space to allow planting which would provide a screen over a period of between 5 – 10 years. Planting has taken place alongside the boundary outside the appellants' land but no scheme is before me that would allow for the management of that area which reduces the weight I have attached to it in contributing to a screen.

39. The A303 is in an elevated position to the north-west of the appeal site where there is an exposed section following the removal of trees and vegetation by the Highways Agency and which allows views towards the site from passing vehicles. However, traffic on that road is reasonably heavy and moving at considerable speed so such views as there are from that position are likely to be fleeting in the short term but would reduce with screening from the existing and proposed landscaping .
40. There are a number of residential properties within the visual envelope of both the caravan site and the Rally Fields. In the short term views of the Rally Fields from Scotland Lodge, which is at a slightly elevated position above the A303 can be gained. These views would significantly reduce in the medium term as the landscaping matures. Views from the other dwellings are limited. However, I noted that parts of the site can be seen presently from Over the Hill to the south and parts of the gardens of Till Cottage and Keepers Cottage.
41. In all these cases the limited views that exist at present would reduce in the medium to long term as the existing and proposed landscaping at the edges of the site matures. Control of the extent of the camping and caravanning to minimise the visual impact and to ensure adequate landscaping can be secured through planning conditions, if all other matters are acceptable. Consequently, both the use of the site for camping and caravanning together with the related operational development would be well screened in the medium to long term (5-9 years).
42. Overall, I found the appellants' assessment of visual impact persuasive in indicating that there would be very limited visual impact of the appeal schemes on both the local and wider areas of the landscape. It is, in any event, based on a worst-case scenario of all the proposed caravan pitches being occupied and tents present in both paddocks of the Rally Fields. However, I agree with the appellants that the situation for most of the period being considered would be less than that further reducing the likely visual impact.
43. I note the Council's concern that the assessment does not fully consider the visual effect of vehicles at the site entrance (either entering or leaving) or on the access track. I accept that vehicles and caravans in those positions could be visible particularly from some of the elevated viewpoints. Such activity is likely in most cases to be of a transient nature and even at the busiest times is not likely to be harmful to the landscape character for anything other than a short time. Consequently, I have not attached significant weight to that concern.
44. Taking all the above factors into account I consider that there would be limited conflict with SP policy RLT10 and LP policy T9. I do not consider that the harm to the character and appearance of the locality including the SLA from the appeal proposals would be material and it would not of itself lead me to dismiss the appeals.

Living conditions

45. The Council has raised objections in this regard only in respect of the enforcement notice issued in respect of the alleged change of use (Appeal A) and not the scheme comprising the s78 appeal (Appeal C). Notwithstanding that, compelling evidence was given at the Inquiry by a number of the interested parties who live near the site (and others) to indicate that at various times the use of parts of the site for camping and caravanning had led to noise

and disturbance to their living conditions at unsocial hours. The evidence provided indicated that this was primarily from music (both amplified and non-amplified) played late at night particularly from those parts of the Rally Fields and Summerfield House closest to the dwellings. Some of the interested parties indicated that the music and other noises could be heard over a wide area.

46. I have no doubt that much of the problem in this regard stemmed from the fairly uncontrolled use of the site at that time. Suggested planning conditions discussed at the Inquiry to limit the area for camping and caravanning (and the numbers of caravans and tents) together with limitations on amplified and non-amplified music and greater visual screening would, in my opinion, go a very considerable way to resolving the concerns that were aired. Such conditions can be attached to a planning permission, if all other matters are acceptable.
47. Subject to the imposition of planning conditions as discussed above attached to any permissions granted in respect of these appeals I conclude on this issue that the development proposed in Appeal A and Appeal C would not be materially harmful to the living conditions of occupants of nearby dwellings and would accord with the overall aims of LP policy T9(iv).

Economic benefits

48. The parties agree that the use of the site for tourist related purposes would lead to economic benefits both to the immediate and wider areas. The scheme would provide one FTE⁷ job and there was agreement that there would be some visitor spend, albeit unquantified, in the area.
49. The proposed development, taken as a whole, accords with national planning policy in PPS4 (policy EC7) which urges Councils to support sustainable rural tourism and leisure developments to help deliver the Government's tourism strategy. It is also supported by the Government's commitment to promote sustainable growth and jobs⁸.

Fallback position

50. The appellants have permitted development rights which enable them to make use of the site for camping⁹ and caravanning. For the days that such activity would be covered by these rights the numbers of tents and caravans at the site would be fairly uncontrolled and could be significantly greater than those suggested in the schemes now before me with the suggested conditions. There is a reasonable likelihood that some of the problems brought to my attention by uncontrolled camping and caravanning in the past would re-occur under this fall back position. Consequently I can attach considerable weight to it in my overall balance of considerations.

Other matters

51. A number of other matters are brought to my attention by the interested parties. There is concern that the appeal schemes would have a harmful effect on nature conservation interests in particular the nearby SSSI¹⁰ along the River Till. However, no substantive evidence was produced to support that contention and I cannot attach significant weight to it.

⁷ Full time equivalent (FTE)

⁸ Ministerial Statement dated 23 March 2011 by Greg Clark, Minister of State for Decentralisation

⁹ Under Part 4 Class B of Schedule 2 and Part 27 of Schedule 2 to the GPDO

¹⁰ Site of Special Scientific Interest (SSSI)

52. Concern was also expressed by interested parties and the local Parish Councils in respect of the effect of the schemes on highway safety, particularly slow moving large vehicles and some vehicles towing caravans seeking to exit the site onto the B3083. The initial consultation responses of the Highways Agency and the Highways Department of the Council¹¹ did not raise objections in this respect, however shortly before the Inquiry an objection was received¹² indicating the view of the relevant highways officer that visibility from and of vehicles leaving the site access is restricted by a hedge that had recently been planted along the roadside site frontage. The principal parties agree that greater visibility can be secured by re-positioning the planting along the bunds and that this could be secured through a condition, if all other matters are acceptable.
53. I have had regard to other matters raised including the effect on archaeology, and sewerage and waste water disposal. None alters my view as to the main issues on which these appeals turn.

Conditions

54. The parties have both suggested¹³ a number of conditions in the event that the appeal is successful. A number of the suggested conditions are common to the individual appeals, notwithstanding differences in site boundaries. Conditions relevant to the individual appeals are set out in the Annexes to this decision.
55. A number of conditions are suggested mainly to safeguard the visual amenity of the area. For this reason a condition is required for details of any existing and proposed landscaping to be submitted to the Local Planning Authority and approved in writing. In connection with Appeals B and C I will attach a condition requiring the removal of the mesh fence. I also agree that a number of conditions should be attached in respect of all the appeals for the provision and maintenance of landscaping including a requirement for a landscape management plan. These landscape conditions require the permitted use to cease and all tents and other incidental development to be removed in the event that the conditions are not satisfied.
56. I agree that a condition is required to put a restriction on the siting and number of caravan pitches. Whilst the parties agreed in principle that they should only be within the area notated as "Campsite/Red Land" on Drawing WGDP 01 contained in the SCG to the easternmost part of the site, to protect the visual amenity and character of the area and also help to safeguard the living conditions of occupants of nearby dwellings, they differed as to the number of pitches and caravans that would be appropriate in that area.
57. The appellants have suggested that that part of the site could accommodate 15 caravans laid out as illustrated on Drawing: Landscape Plan 2010. The Council considers that the area should be restricted to the northern part of that area such that it would accommodate 11 pitches and caravans (Plots 1-8 and 13-15 on Drawing: Landscape Plan 2010). The disputed area is well contained by earth embankments following the excavation and re-profiling of the ground in that area and it is reasonably well screened by existing vegetation. It is the nearest area to the garden of Keepers Cottage across the public right of way but a considerable distance from the house and the most private part of the

¹¹ Evidence of Charlie Bruce-White

¹² Document 13 to the Inquiry

¹³ Contained in the Statement of Common Ground

garden. In consequence, I lean to the view of the appellants that there would not be a materially harmful effect on the amenities of the occupants of Keepers Cottage from the use of pitches 13-15 on Drawing: Landscape Plan 2010 and the condition I will impose will reflect that conclusion.

58. Conditions are suggested to limit the area for tented camping, the number of tents and the number of days that the use would be permitted. The area to be used is not in dispute by the parties (the area notated as Rally Fields/Blue Land on drawing WGDP 01) but the number of tents and number of days that would be available for camping are in dispute.
59. The appellants suggest that the defined area for tented camping should only be used for such purposes between 19 March and the 30 September inclusive within any calendar year and that it should be used for a maximum of 20 tents on any day within that time period save for 10 days when a maximum of 100 tents would be permitted and a further 14 days when a maximum of 40 tents would be permitted.
60. The Council has suggested a more restrictive approach within the same area. It suggests that that land could be used for tented camping for up to a maximum of 100 days between 1 March and 1 October inclusive within any calendar year. Within that period the Rally Fields should not be used for the stationing of more than 20 tents in total on any day save for between 18 - 25 June inclusive when no more than 100 tents in total could be stationed there and no more than 40 tents in total on Bank Holiday weekends. As the Council's suggested period for use is similar in span to that suggested by the appellants I do not see any particular benefit to the overall visual amenity of the area to limiting the number of days to 100 when the area could be used for a limited use of a maximum of 20 tents. The location of those tents away from dwellings is not likely to lead to harm to the living conditions of occupiers of nearby dwellings. Further such a limitation of use suggested by the Council would, to my mind, be difficult to monitor either by itself or by local residents.
61. The further limitations in respect of use by up to a maximum of 100 tents (8 days) and use by up to a maximum of 40 tents on Bank Holiday weekends suggested by the Council do not differ markedly from the limitations suggested by the appellants and which would, in my view, be simpler to monitor. For those reasons I will impose conditions along the lines suggested by the appellants in respect of these matters.
62. To support the above conditions I agree that an up-to-date written record of all persons visiting the site is maintained and permitted development rights that would otherwise allow camping and caravanning on other parts of the site should be removed. Circular 11/95¹⁴ advises that such permitted rights should only be removed in exceptional circumstances and I consider that this is such a case to safeguard the living conditions of occupants of nearby dwellings and also as uncontrolled camping and caravanning on the remainder of the site would cause harm both to the visual amenity and character of the area.
63. Conditions to restrict the location and number of fire pits and to prevent the playing of amplified music at any time in the appeal sites and to place a time limit of 2300 hours for the termination of the playing of unamplified music on any day will help to prevent noise and disturbance to nearby residents of the site at unsociable hours.

¹⁴ Circular 11/95: The Use of Conditions in Planning Permissions

64. A condition to restrict access to and egress from the land used for tented camping from the southernmost access to the site will safeguard the living conditions of the occupants of Over the Hill. A condition requiring the provision of an alarm system installed to the cesspit will help to prevent pollution to water courses.

65. Finally I will attach a condition to require a written scheme of investigation of archaeological remains and to implement a programme of work based on the findings prior to any ground works being undertaken.

Balance of considerations and conclusion on the ground (a) and s78 appeals

66. Although I have found some limited conflict with SP policy RLT10 and LP policy T9 in respect of the effect of the schemes I do not consider that the proposed development would have a materially harmful effect on the character and appearance of the locality including the SLA. Any resulting harm would be significantly outweighed by direct and indirect economic and tourism benefits to the locality and the wider area. In addition I found that the scheme would not, subject to conditions, have a harmful effect on the living conditions of occupants of nearby dwellings.

67. I conclude that for the reasons given above and having regard to all other matters raised the appeals under ground (a) and s78 should succeed.

The appeal on grounds (f) and (g) (Appeal B)

68. As there is success on ground (a) which leads to the corrected notice being quashed, there is no need to go on to consider the appeals on grounds (f) and (g).

Formal decisions

APP/Y3940/C/10/2139334 (Appeal A)

69. I allow the appeal, and direct that the enforcement notice be quashed. I grant planning permission, on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the development already carried out, namely the use of the land for temporary events (in particular the use as a temporary camping site for the stationing and human habitation of tents) in excess of that permitted by Part 4, Class B of the Town and Country Planning (General Permitted Development) Order 1995 at Land at Stonehenge Campsite/Summerfield House, Berwick St. James, Salisbury, SP3 4TQ, shown on the plan edged red attached to the enforcement notice, subject to conditions attached at Annex A to this decision.

APP/Y3940/C/10/2142020 (Appeal B)

70. I direct that the enforcement notice be corrected by the deletion of "to development took place" and the substitution thereof of the words "to the development taking place" in paragraph 5 requirement (b) and by the deletion of "profiles that" and the substitution thereof of the words "profiles to that" in paragraph 5 requirement (e).

71. Subject to the above corrections I allow the appeal, and direct that the enforcement notice be quashed. I grant planning permission, on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the development already carried out, namely the carrying out of engineering and other operations on the land, including materially altering

the landform by excavating and re-profiling the ground to form levelled areas and formation of hardstandings; formation of earth bunds and associated fencing, installation of a cesspool/waste disposal point and enclosing fencing, installing electrical hook-ups and lighting; materially altering the position of and widening an access onto a classified road and resurfacing and improvements to an existing track; partial construction of a new track, formation of a pathway and erection of a toilet block and washing up building at Land at Stonehenge Campsite/Summerfield House, Berwick St. James, Salisbury, SP3 4TQ, shown on the plan edged red attached to the enforcement notice, subject to conditions attached at Annex B to this decision.

APP/Y3940/A/10/2136994 (Appeal C)

72. I allow the appeal and grant planning permission for a change of use of land to touring caravan and camping site, including retention of access, driveway, hardstandings, shower/wc block, chemical toilet disposal area, cess pit and electric hook-up points at Stonehenge Campsite, Berwick Road, Berwick St. James, Salisbury, SP3 4TQ in accordance with the terms of the application (Ref S/2010/7/FULL, dated 24 December 2009) and the details submitted therewith and thereafter and subject to conditions set out at Annexe C to this decision.

Kevin Nield

INSPECTOR

ANNEXE C

SCHEDULE OF CONDITIONS FOR APPEAL C: APP/Y3940/A/10/2136994

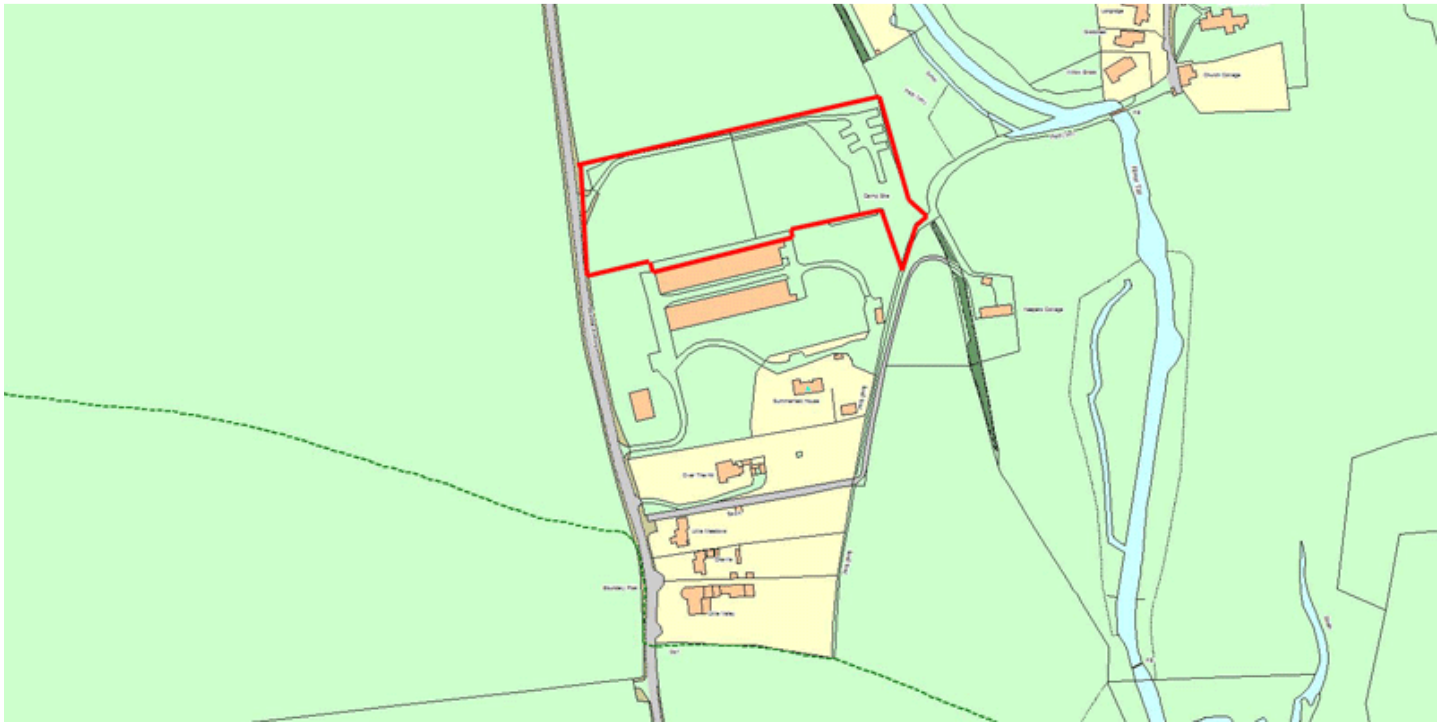
1. The development shall be carried out strictly in accordance with the approved plans (Site location Plan, Planning application plan: PV 316/WFG/TA, Landscape Plan 2010 and drawing WGDP 01).
2. The land notated as "Campsite/Red Land" on drawing WGDP 01 shall only be used to accommodate a maximum of 15 caravans on any day of the calendar year.
3. No amplified music to be played or broadcast at any time on any day of the calendar year on the land notated "Campsite/Red Land" or land notated as "Rally Fields/Blue Land" on drawing WGDP 01.
4. No unamplified music to be played after 2300 hours on any day of the calendar year on the land notated "Campsite/Red Land" or land notated as "Rally Fields/Blue Land" on drawing WGDP 01.
5. The use of the land for tented camping shall be strictly limited to that part of the site within the area notated as "Rally Fields/Blue Land" on drawing WGDP 01 and shall be used only in connection with the use of the area notated as "Rally Fields/Blue Land" as a whole. No caravans, motorhomes, campervans or other vehicle or structure adapted for human habitation which would fall within the definition of a caravan shall be stationed or parked on this land, which shall not be used for any camping other than for tented camping purposes between 19th March and the 30th September inclusive within any calendar year. That part of the application land within the area notated "Rally Fields/Blue Land" on drawing WGDP 01 shall be used only in connection with the use of the area notated as "Rally Fields/Blue Land" as a whole for a maximum of 20 tents on any day within the time period specified above, save for 10 days when a maximum of 100 tents and also a maximum of 40 tents on 14 additional days can be stationed within the period prescribed above. For the avoidance of any doubt, any day or part thereof when a tent or tents are stationed on the land or when activities incidental to camping are continuing (for example, the stationing of portaloos) is to be regarded as a day's use for the purposes of this condition.
6. Notwithstanding the provisions of any Class of the Schedule to Town and Country Planning General Permitted Development Order 1995 (or any order revoking and re-enacting that order with or without modification), there shall be no stationing of any tents on any part of the land other than on the area referred to as Rally Fields/Blue Land on drawing WGDP 01 or within the approved caravan site, and there shall be no stationing of caravans outside of the approved caravan site.
7. A maximum of 10 fire pits shall be permitted within the land notated as "Rally Fields/Blue Land" on drawing WGDP 01 within the site and no other fires (excluding domestic barbecues and domestic garden/maintenance fires) shall be lit within any part of the site.
8. Within seven days of the date of implementation of the permission hereby

- granted the applicant/site manager shall keep an up-to-date written record of all persons visiting the site for the purposes of recreation and the number of caravans and tents there on any day. The written record shall be maintained thereafter and made available to the local planning authority for inspection at reasonable notice.
9. There shall be no vehicular access and egress to and from the land used for tented camping from the southernmost vehicular access to the site (adjacent to Over the Hill).
 10. Within one month of the date of implementation of the permission hereby granted, the details of any existing external lighting installed on the land and any additional external lighting proposed, shall be submitted to and approved by the Local Planning Authority. Details shall include the type of light appliance, the height and position of fitting, illumination levels and details of measures to reduce light pollution including any external cowls, louvres or other shields to be fitted to the lighting. Development shall be carried out in accordance with the approved details and maintained as such thereafter. Other than those agreed, there shall be no further lighting of the site, unless otherwise agreed through a new planning permission.
 11. The use hereby permitted shall cease and all caravans, tents and other incidences of the use shall be removed within three months of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
 - (i) Within 3 months of the date of this decision, a landscape management plan, including long-term design objectives, management responsibilities and maintenance schedules for all landscape areas together with details of all existing planting and proposed planting to be undertaken including details of planting locations, size, densities and times of planting and arrangements for aftercare and maintenance, shall be submitted to and approved in writing by the Local Planning Authority, the plan to include a timetable for its implementation;
 - (ii) Within 3 months of the date of this decision, if the Local Planning Authority refuses to approve the scheme submitted under (i) above or fails to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State;
 - (iii) An appeal is made in pursuance of (ii) above, and that appeal has been finally determined and the submitted scheme has been approved by the Secretary of State.
 - (iv) The approved landscape management plan has been implemented in full in accordance with the approved timetable.
 12. Within 3 months of the date of this decision details of a scheme for an alarm system to be fitted to the cesspit to provide warning against overflowing shall be submitted to and approved in writing by the Local Planning Authority. The system shall be installed within 3 months of the approval by the Local Planning Authority and shall thereafter be retained and maintained.
 13. Within one month of the date of the permission hereby permitted visibility splays of 4.5m x 75m measured from the centre line of the access adjacent to the northern site boundary shall be provided across the site frontage. The visibility splays shall be maintained permanently thereafter free from obstruction above a height of 300mm.

14. The fence along the side and top of the earth bunds fronting Berwick Road (B3083) and within the site shall be removed within three months of the date of the permission hereby granted.

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Stonehenge Campsite, Berwick St. James SP3 4TQ



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REPORT TO THE SOUTHERN AREA COMMITTEE

| | | | |
|---------------------------------|---|------------------------------|-------------------|
| Date of Meeting: | 18 th April 2013 | | |
| Application Number: | S/2012/0521/Full | | |
| Site Address: | Old Sarum House, Portway, Old Sarum, Salisbury. SP4 6BY | | |
| Proposal: | Construction of a three storey, 120 bedroom care home (72 specialist nursing beds and 48 dementia beds) including associated site works, landscaping and car parks. | | |
| Applicant / Agent: | Mr A Marshall, Brackley Investments Ltd / The Orders of St John's Care Trust | | |
| City/Town/Parish Council | Salisbury City Council | | |
| Electoral Division | Laverstock & Ford | Unitary Member | Cllr Ian McLennan |
| Grid Reference: | Northing: 414730 | Easting: 133378 | |
| Type of Application: | Small Scale Major | | |
| Conservation Area: | Cons Area: NA | LB Grade: NA | |
| Case Officer: | Mrs Amanda Iles | Contact Number: 01722 434312 | |

Reason for the application being considered by Committee:

Councillor McLennan requested that it be determined by committee due to the departure from the allocated employment use of the site.

1. Purpose of report

To consider the above application and to recommendation of the Area Development Manager that planning permission be **GRANTED** subject to conditions.

2. Report summary

1. Principle of development and employment issues
2. Highway considerations
3. Amenities of adjoining and nearby property and future occupiers
4. Character and appearance of the area and heritage assets
5. Arboricultural Impact
6. Ecological Impact and flooding
7. Archaeological Impact

3. Site Description

The application site forms part of a mixed use development allocation in the Salisbury Local Plan comprising a total of 39 hectares which included 630 dwellings and 6 hectares of employment land.

The application site is 0.8 hectares of the aforementioned employment land which is bounded to the south by The Portway, the allocated employment land to the north, the newly built residential development to the east and the Shaw Trust, Bradbury House and the former Sarum Centre to the east. To the south-east of the site is the Old Sarum Business Park with the airfield beyond.

4. Relevant Planning History

| Application number | Proposal | Decision |
|--------------------|---|--------------------|
| S/2005/0211 | Mixed use development comprising new residential, employment uses and community facilities and associated infrastructure | Approved 17/05/07 |
| S/2010/1155 | Construction of a 2 storey, 80 bedroom care home, including associated site works, landscaping and car parking | Withdrawn 28/11/10 |
| S/2013/0305 | Reserved matters application for the development of road, footpath and cycle way following outline approval s/2005/0211 (mixed use development comprising new residential, employment uses and community facilities and associated infrastructure). | Not yet determined |

5. Proposal

Permission is sought for the construction of a three storey, 120 bedroom care home with associated site works, landscaping and car parks. The building will provide 72 specialist nursing beds and 48 dementia beds.

The building will be constructed from facing brick with contrasting soldier courses, knapped flint panels and eternity flat cladding panels with an artificial slate roof.

6. Planning Policy

Salisbury District Local Plan policies G1, G2, D1, D2, D7, H2D, H24, E1B, CN11, CN20, CN21, CN22, CN23, R3, PS2, T11, T12, T14 as 'saved' within the Adopted South Wiltshire Core Strategy

Adopted South Wiltshire Core Strategy CP5, CP19, CP20, CP22

Wiltshire & Swindon Waste Core Strategy DPD WCS 6

Wiltshire Care Strategy

NPPF(particularly paragraphs 22 and134).

7. Consultations

Laverstock & Ford Parish Council

Support subject to:

- Adequate parking being provided on site to limit on-road parking
- The Travel Plan being a live document which is reviewed
- The facility should have community integration

Spatial Planning Department

The proposal is not in accordance with the NPPF nor is it in line with the South Wiltshire Core Strategy and its strategic aims and the proposal is therefore contrary to policy. The

site in question is allocated for predominantly B1 uses and the site is identified strategically for such uses to 2026 to meet the employment strategy for Salisbury City including the decant of Churchfields Industrial Estate. The proposal is therefore also not in accordance with the economic vision of the Core strategy nor does it meet the requirements of CP5. In addition it is confirmed that there is not an oversupply of employment land at Salisbury City.

Environmental Health Department

Final comments of EHO awaited at the time of writing. Negotiations and discussions continue regards the likely impact of noise/vibration on future residents of the proposal. A formal report into these issues has been undertaken by the applicant, and is being considered.

Environment Agency

No objection subject to conditions (see below)

Highways Department

No objection subject to conditions (see below)

County Ecologist

No objection

Defence Infrastructure Organisation

The MOD has no safeguarding objections to the proposal

Wiltshire Fire & Rescue Service

The scale of the project and the complex approach to the fire safety will necessitate the need for joint consultation by the Building Regulations Authority, designer and Fire Authority.

Natural England

No objection

Highways Agency

No objection

Archaeology Department

No objection subject to condition (see below)

Wessex Water

Scottish & Southern is the water and sewerage undertaker for the site.

Scottish & Southern

No comment received

English Heritage

Object on grounds of visual impact on Old Sarum Ancient Monument and surrounding landscape

8. Publicity

The application was advertised by site notice, press advert and neighbour consultation which expired on 10th May 2012.

1 letter of support was received with a letter of observation from the same party concerned about the use of the land, as a shop and pub were expected.

1 letter of objection was received regarding the following:

1. The garden area will be less than for the original (withdrawn) application and there is potential for the site to be extended north
2. A plan has not been submitted showing the height of both the proposed building and the housing opposite (*it is considered that sufficient documentation has been submitted to determine the application*)
3. As access will be to the front of the development there will be greater noise and visual disturbance for adjoining residents
4. Have sufficient turning facilities been provided?
5. Turning vehicles equipped with a loud reversing alarm would cause unnecessary and prolonged noise disturbance in the area.
6. Will deliveries be limited to a normal working day?
7. What will the frequency and timing for refuse collections be?
8. A noise assessment has not been submitted although it is referred to
9. Will waste be treated within the site such as incinerating or composting?
10. Will the travel arrangements co-ordinator be responsible for ensuring overflow parking on Ramsbury Drive will be discouraged?
11. Will the bus service continue after the Persimmon subsidy ends?
12. Will a Construction Management Plan be submitted and monitored throughout the works?

9. Planning Considerations

9.1 Principle of development and employment issues

The site forms part of an allocated employment site of 6 hectares which was given outline consent under S/2005/0211 in accordance with policies H2D and E1. The site is also the subject of an adopted development brief (stipulating B1 use) and the S106 on the outline consent confirms that the employment use on the site should be B1 and B2.

The NPPF provides a presumption in favour of sustainable development and seeks to make it easier for jobs to be created, improve the conditions in which people live and work and widen the choice of housing (paragraph 9). However, it also makes it clear in paragraph 11 that “planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise”.

The Council has an up to date development plan in the form of the South Wiltshire Core Strategy. Policy CP5 (which replaced policy E16 of the Salisbury District Local Plan) states that the development of land or buildings previously or currently used for, or allocated for, activities falling within uses classes B1, B2 or B8 will not be granted unless it can be demonstrated that:

- i. the proposed development will generate the same number or more jobs than could be expected from the existing use, or any potential employment use; or
- ii. where the proposal concerns loss of employment land of more than 0.25ha within Salisbury city or the settlements of Amesbury, Downton, Mere, Tisbury or Wilton, it is replaced with employment land of similar size elsewhere in that settlement; or
- iii. it can be shown that the loss of a small proportion of employment floorspace would facilitate the redevelopment and continuation of employment use on a greater part of the site, providing the same number or more jobs than on the original whole site; or
- iv. the site is not appropriate for the continuation of its present or any employment use due to a significant detriment to the environment or amenity of the area; or
- v. there is valid evidence that the site has no long term and strategic requirement to remain in employment use; the ability of the site to meet modern business needs must be considered, as well as its strategic value and contribution to the local and wider economy, both currently and in the long term; site appraisal criteria, as provided by the Employment Land Review, must be applied and an objective assessment made of the sites potential contribution to the economy, in line with other sites in the area; it must be shown that the site is no longer viable for its present or any other employment use and that, in addition, it has remained unsold or un-let for a substantial period of time, following genuine and sustained attempts to sell or let it on reasonable terms for employment use, taking into account prevailing market conditions.

Understandably, the Spatial Planning Department of the Council have objected to the proposal on policy grounds, indicating that the proposal is contrary to national employment policies, and policy CP5 of the SWCS.

However, in this particular instance, it is considered that there may be other material considerations and mitigating factors which need to be assessed, and which may outweigh the pure planning policy issues.

Firstly, the applicants suggest that some 120 new jobs will be created from the proposal, and this would be in line with Council aims to improve the local economy. Furthermore, the need for both dementia and specialist care has identified in Salisbury through Wiltshire Council's 'Care Strategy'. This states that 338 additional dementia beds and 539 additional nursing beds are required countywide and the proposal will meet part of this need in South Wiltshire.

Therefore, it could therefore be argued that criterion i) of policy CP5 is satisfied by this proposal, and that other Council care policies are also satisfied with regards care home provision.

Members should however consider this in the context that the applicant intends to shut two care homes (Bemerton Lodge and Stratford Court) in Salisbury. Although the applicants

plan is to redevelop these sites for care purposes, as no information regarding these future proposals has been submitted, there will be no guarantee that this will be the case. The applicant's Planning Statement states that the development will provide an additional 16 bed spaces over and above the number of bed spaces currently provided on the existing aforementioned care home sites. There is therefore the possibility that the actual number of jobs created by this scheme will not be significantly different to those that already existing in the area.

Secondly, the employment land on which the proposal is proposed is not being replaced with employment land of a similar size elsewhere in the Salisbury area, and little explanation has been provided as to how the redevelopment of the site could "kick start" other employment uses at Old Sarum. However, it is somewhat debatable whether criterion ii) of policy CP5 applies to this particular proposal, as the site is actually located in the Parish of Laverstock & Ford, and not Salisbury City, although it is obviously close to the boundary of the latter.

In terms of the impact of the proposed care home use, it is also considered that there may be visual and general amenity benefits in utilising this site as a residential care home rather than a more traditional employment use, given the close proximity of the site to other existing residential properties, and its prominent position facing The Portway. Whilst there would be a number of deliveries and visitors each day to the site, the care home use is likely to generate less overall traffic impacts than a traditional employment generating use. Although it is unlikely that the proposed use would prevent Class B1 uses coming forward (office/light industrial), some concern remains that other types of employment uses that may generate more noise and disturbance may not be compatible with a care home/residential type use. However, it is acknowledged that with the positioning of the parking to the north of the care home site, the impact of any future adjacent noise-generating industrial uses would be somewhat mitigated. It potential could be argued that criterion iv) of policy CP5 might be satisfied by the proposal if it is considered that is some amenity benefit.

In terms of other potential employment uses for the site, the site has been marketed since February 2006, and it appears to have been through a 'targeted' exercise rather than an open market exercise, where the landowner has highlighted 32 parties that were contacted regarding the site. This process appears to have resulted in the sale of the site in November 2007 but the developer withdrew from the purchase in June 2009. There have apparently been enquiries on the site throughout the recession even though the site does not appear to have been actively marketed.

No information has been submitted to demonstrate that other land elsewhere in Salisbury would be more appropriate. The only justification given for siting the care home here is that being greenfield land the land value is lower making the proposal more viable. There has been no identification of synergies with other land uses surrounding the site. Although there will be a hairdresser, shop, cinema room, pub and tea room due to the dependent care needs of residents it does not appear that such facilities will be available to the wider community.

However, (as identified at paragraph 5.3 of the South Wiltshire Core Strategy) there is an oversupply of employment land within South Wiltshire at the current time, although some of this oversupply is not in the optimum location. The 29ha of employment land identified as required for Salisbury and Wilton includes the 6ha of employment land at Old Sarum, and is required to meet employment needs to 2026 including the decant from Churchfields Industrial Estate. As a consequence, it is not straight forward to simply assume that the proposal conflicts with criterion v) of policy CP5.

From a policy point of view, it could therefore be argued that some of the aims of policy CP5 of the SWCS are in fact partially satisfied by the proposal. Furthermore, paragraph 22 of the NPPF states:

Planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities.

The employment site was granted consent in 2007. To the best of officer's knowledge, there have been no firm schemes or proposals to date to develop the employment area.

Saved Policy PS1 (of the previous Salisbury District Local Plan) is supportive of the development of health and social services within or adjoining settlements providing there is sufficient amenity space it is close to shops, community facilities and bus routes and saved Policy H24 has similar aims. Old Sarum now forms a settlement in its own right with community facilities and shops planned and bus services are in place. Furthermore, the building is designed with amenity space. Therefore it is considered that the scheme would comply with both of these policies, and accords with more general sustainable development aims.

Therefore, although there is arguably some conflict with the current local employment policies, given the above factors, and in particular the number of jobs likely to be created, the apparent need for the care home use, and the likely visual and amenity benefits compared to a traditional employment use in this location, in this particular instance, it is considered that the scheme accords generally with aims of local and national planning policy,

9.2 Highway considerations

The Highways Department have no objections to the proposal in principle but have requested that a swept path analysis be submitted to demonstrate that larger service vehicles can adequately turn within the site. Sufficient parking provision has been provided (54 spaces) and there is less concern with regard to small private vehicles turning as it is likely there will be spaces available to facilitate this. Therefore a condition is added requiring a swept path analysis to be submitted.

A third party has questioned how the travel plan co-ordinator will deal with the highway issues relating to the development. This arises from paragraph 1 of page 84 of the S106 which requires no development to commence on the employment land until a travel plan co-ordinator has been appointed "to identify coordinate and facilitate the implementation measures intended to reduce the number of car trips made to and from the employment land". Any development will need to comply with this unless a further addendum is made to the S106. A Travel Plan has been submitted with this application, within which it is stated that a travel plan co-ordinator will be appointed. In addition to sufficient parking facilities, the site is served by 3 bus routes with one route stopping immediately outside the main entrance and cycle parking facilities for both staff and visitors provided. With regard to concern raised by a third party, parking on Ramsbury Drive cannot be controlled via this application and the bus service continuation will be a matter for the bus company.

9.3 Impact on Amenities

Both the impact on the proposal on existing amenities, and the impact of adjacent existing uses on the proposed occupiers of the care home needs to be considered.

i) Impact on surrounding uses on the proposal

The site is located adjacent to existing residential properties, and also close to the commercial and industrial users on the Sarum Industrial Park to the south east.

Following the completion and occupation of the dwellings at the Old Sarum development, the Council has been in receipt of complaints from a large number of occupants of the dwellings concerning a very low frequency repetitive “thumping” sound which can occur anytime between 06:00 and 21:00 during the week. The source of the vibration and noise was identified as the cutting shear/guillotine within the Equinox factory. Since then, and in accordance with the Council’s duties under the Environmental Protection Act 1990, the Council served a statutory nuisance abatement notice on the company requiring them to abate the nuisance. The company appealed this notice to the Magistrates Courts and the appeal was heard in November 2012. At the appeal hearing Equinox claimed that they had implemented “best practicable means” to abate the nuisance and that any requirement to carry out further works or reduce operating times would risk putting them out of business. The Court accepted Equinox’s claims and quashed the statutory nuisance abatement notice. The effect of the Courts judgement is that Equinox can continue to operate as they have been. This unfortunately means that the company will continue to cause a statutory nuisance.

It is proposed to build the half of the building closest to Equinox on elastomeric bearings (with the remainder trench filled) to prevent the transfer of vibration into, and creation of re-radiated noise within the care home. This, in combination with the levels of background noise which will exist within a facility of this kind, should mean that the operation of Equinox will not cause significant problems within the proposed care home. The required data to demonstrate this has been recently submitted to the authority but, at the time of writing, the Environmental Health Officers and their consultant have not yet considered the data, although it is understood that the environmental objections may have been overcome. It is anticipated that formal confirmation of the EHO views will be received prior to the meeting with suggested conditions to mitigate any impact.

Notwithstanding the above, the proposal site would be located on and directly adjacent to land allocated for employment purposes. The policy and associated allocation documents envisage the land being used for more traditional employment uses, and not for residential type uses. If the land adjacent to this proposal is therefore built out as intended, there is a possibility of more traditional factories and other industrial uses being located quite close to the proposed care home, and utilising the roadway adjacent the site. There is therefore the potential for the occupiers of the care home to suffer future detriment from any adjacent uses. Environmental Health have stated that the presence of a significant residential development in this location may well influence or limit the uses to which that land can be put in the future and may lead to quite restrictive planning conditions being attached to the commercial/industrial development as and when planning applications for the development are received.

In officer’s opinion, whilst the EHO concerns are valid, it would be difficult to refuse the care home application based on the perceived impact on care home residents caused by a future development which has yet to be submitted or agreed by the LPA. It should be noted that a number of other residential properties have been permitted around and adjacent to

the employment allocation site, and the care home as proposed would be located within a similar proximity. However, the approval and construction of this residential type use does make it more likely that the most appropriate future commercial uses on adjacent sites would be those which cause limited disturbance, thus restricting likely future development to Class B1 office type uses.

ii) Impact of care home on surrounding uses

While the use will result in greater noise and disturbance to local residents than the existing unused area of land a care home is not considered to be any worse than an employment use as originally intended. Indeed, it is considered that a care home is likely to have less impact on adjacent residential amenities than most industrial uses, in terms of general noise and disturbance created, including less heavy vehicles.

The proposal may result in slightly more overlooking and overshadowing than an employment use but given the fact that the road will provide some separation and the building is set well back from the road frontage this is not considered to be significantly detrimental.

With regard to the comments raised by a third party there is no suggestion that waste will be burnt or composted on site although this is not considered pertinent to this application and it is not considered enforceable or reasonable to condition the timing of bin collection.

9.4 Impact on character of area and heritage assets

The site lies just to the north-west of the Old Sarum Airfield Conservation Area with its Grade II* listed hangers, and to the north-east of Old Sarum Castle, a Scheduled Ancient Monument (SAM) and listed building. Although the three storey building would relate in height to the existing town house developments along the Portway, the Conservation Officer feels that the scale and layout of the building, being institutional, would be oversized in the landscape and should the trees on the south-western boundary be removed it would be even more visible. Therefore as the trees are currently not offered any protection by reason of being within a Conservation Area, or subject to a TPO, the Conservation Officer has significant concerns that the proposal is insufficiently considerate of its sensitive heritage setting.

English Heritage have commented that there is very limited information submitted to identify and assess the significance of designated heritage assets and how such consideration has informed the design process, as required by paragraph 128 of the NPPF. They consider that the scheme “will create a mass and bulk which is contextually alien in its design and likely to be an unduly dominant presence”. Therefore they feel that the development will not be appropriate, given the context of the surrounding heritage assets and rural landscape and the proposal will not be significantly detrimental to the nearby Conservation Area, SAM and listed buildings.

While the concern regarding the design and setting of the building within the context of heritage assets and rural landscape is understood, paragraph 134 of the NPPF requires harm to be weighed against any public benefits the proposals may deliver. In officers opinion, whilst the building will be quite dominating at close quarters, at long distances, its dominance is likely to significantly diminish. When viewed from the Old Sarum monument and adjacent vantage points, it seems likely that the development will be viewed against the expanding Old Sarum development (and the future Longhedge development adjacent). From the adjacent Old Sarum aerodrome Conservation Area, the building is unlikely to be

readily visible at all, apart from at the southern tip of the Conservation area, where again, it will be read against the context of the surrounding development.

Therefore, in conjunction with the fact that the building will be read with the housing development beyond and the industrial units to the south-east, it is considered that on balance the scale is acceptable.

In terms of design, due to its specific requirements, resulting in a large institutional building it is difficult to prescribe an ideal design approach. The breaking up of the building with the different roofs and facing materials is welcomed as is the use of flint which is locally distinctive. The use of brick and artificial slate will also reflect the materials used on housing development currently under construction. However, there is some concern with regard to the use of eternity cladding which could fade over time and does not appear to reflect anything in the surrounding area.

It is proposed to incorporate landscaped garden areas to provide suitable amenity space for residents within the central area of the site with a planted embankment formed from the excavations on the site around the site boundary. Balconies will also be a feature while a roof-terrace overlooks the central sensory garden from the first floor mall seating area. Therefore, while it would be preferable if there was a greater garden area it is considered that sufficient provision has been made in accordance with 'saved' policy R3. The landscaping will also soften the visual appearance of the building as will the existing trees. Therefore, while there are some concerns with regard to the design of the building, it is considered on balance that the building will be visually acceptable within the context.

9.5 Impact on existing mature trees

The root protection zone of the line of lime trees on the south-western boundary has been avoided. However, concern has been raised by the arboricultural officer that the building will be located so close to the trees that they will cause the rooms on that elevation to be very dark and consequently in the future the trees may have to be removed. Most of the living areas of the residents will face towards the internal courtyard and, although some of the bedrooms will look towards the trees the applicants have stated that they welcome this as some residents will prefer to have sunny rooms and other shaded.

The trees are not statutorily protected but as they are not currently threatened it would be difficult to refuse this application on these grounds. However, should they be removed in the future it would be regrettable as they provide screening of both this site and the rest of the Old Sarum development from Old Sarum Scheduled Ancient Monument.

9.6 Ecological Impact and Flooding

The Environment Agency have no objection to the proposals but have requested that conditions be added requiring a scheme for water efficiency measures to be submitted, a Construction Environmental Management Plan to be submitted and informatives regarding surface water soakaways. The site is in Flood Zone 1 where the chance of flooding in any year is 0.5% (1 in 200) or less. The submitted Flood Risk Assessment deals with the potential of surface water runoff as the site has an overall fall of approximately 2 metres from the South-east towards the North-west. Therefore the floor level has been chosen to reduce the risk of the building flooding due to surface water runoff.

The proposal has been assessed by the County Ecologist under the procedure for the River Avon SAC and the development does not meet any of the threshold criteria and therefore it is concluded that there will be no likely significant effects providing conditions are imposed

to deal with the following issues. Firstly the development must use a sustainable urban drainage system to dispose of surface water drainage which the Flood Risk Assessment indicates will be possible. Although the Environment Agency has not identified the need to include such a condition this is likely to be as the site falls between their threshold criteria. Secondly a condition should be imposed requiring water efficiency measures to be submitted as also required by the Environment Agency. Natural England concur with this approach. Therefore the conditions discussed above have been added.

With regard to protected species a badger sett was found within 300m of the site in 2004. However, given that the area has been the subject of large scale development from 2008 until the present time it is considered unlikely that this will still be used and as such there is considered to be limited impact on protected species resulting from the proposal.

9.7 Archaeological Impact

An archaeological investigation has been undertaken as part of outline application S/2005/0211, which showed the site contains three Bronze age barrows which were excavated in the autumn of 2006. While the excavation has been completed, the Archaeology Department feel the area outside the excavation needs to be the subject of an intensive watching brief during the initial stages of the construction. As such a condition relating to this has been added.

10. Conclusion

Whilst there is some acknowledged conflict with local employment policies, on balance, given the need for care facilities in South Wiltshire, the number of jobs created, and the likely amenity improvements, it is considered that the proposal is acceptable in principle, will not be significantly detrimental in terms of visual impact or residential amenity, and due consideration has been given to highways, ecology, archaeology, trees and flooding. As such the proposal is judged to be in accordance with the saved Salisbury District Local Plan policies G1, G2, D1, D2, D7, H2D, H24, E1B, CN11, CN20, CN21, CN22, CN23, R3, PS2, T11, T12 and T14, South Wiltshire Core Strategy policies CP5, CP19, CP20 & CP22, Wiltshire & Swindon Waste Core Strategy DPD WCS6 and the NPPF (particularly paragraphs 22 and 134).

11. Recommendation

Planning Permission be GRANTED for the following reason:

The Council is required to give a summary of the reasons for this decision and its conditions, and a summary of the development plan policies and proposals relevant to the decision and its conditions. These are set out below:

The decision to grant planning permission has been taken on the grounds that the proposed development would not cause any significant harm to interests of acknowledged importance and having regard to the National Planning Policy Framework and the following policies in the South Wiltshire Core Strategy, namely saved Salisbury District Local Plan policies G1, G2, D1, D2, D7, H2D, H24, E1B, CN11, CN20, CN21, CN22, CN23, R3, PS2, T11, T12 and T14, South Wiltshire Core Strategy policies CP5, CP19, CP20 & CP22, Wiltshire & Swindon Waste Core Strategy DPD WCS6 and the NPPF (particularly paragraphs 22 and 134).

In accordance with paragraph 187 of the National Planning Policy Framework, Wiltshire Council has worked proactively to secure this development to improve the economic, social and environmental conditions of the area.

Subject to the following conditions:

(1) The 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) Development shall be carried out in accordance with the following plans:

| | |
|---------------|-----------------------|
| FS323-120-02 | Submitted on 17/04/12 |
| FS323/120-03A | Submitted on 17/04/12 |
| FS323-120-04A | Submitted on 17/04/12 |
| FS323-120-05A | Submitted on 17/04/12 |
| FS323-120-06A | Submitted on 17/04/12 |
| FS323-120-08 | Submitted on 17/04/12 |
| FS323-120-07 | Submitted on 17/04/12 |
| FS323-120-09 | Submitted on 17/04/12 |
| FS323-120-10 | Submitted on 17/04/12 |
| FS323-120-11 | Submitted on 17/04/12 |
| FS323-120-12 | Submitted on 17/04/12 |
| FS323-120-13 | Submitted on 17/04/12 |
| FS323-120-14 | Submitted on 17/04/12 |
| FS323-120-15 | Submitted on 17/04/12 |
| FS323-120-16 | Submitted on 17/04/12 |
| FS323-120-17 | Submitted on 17/04/12 |
| FS323-120-18 | Submitted on 17/04/12 |
| FS323-120-19 | Submitted on 17/04/12 |
| FS323-120-20 | Submitted on 17/04/12 |
| FS323-120-21 | Submitted on 17/04/12 |
| FS323-120-22 | Submitted on 17/04/12 |

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

REASON: For the avoidance of doubt.

(3) 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 including the setting of the heritage assests.

POLICY- G2 (General Development Guidance), D1 (General Design Guidance), G2 (General Design Guidance), C6 (Development within a Special Landscape Area), C7 (Development within the Landscape Setting of Salisbury & Wilton), CN8 (Development affecting a Conservation Area), CN9 (Development affecting a Conservation Area), CN11

(Development affecting a Conservation Area), CN20 (Development affecting a Scheduled Ancient Monument)

(4) No development shall commence until a scheme for water efficiency has been submitted to, and approved in write by, the Local Planning Authority. The scheme shall be implemented in accordance with the agreed details.

REASON: In the interests of sustainable development and prudent use of natural resources

POLICY: G2 (General Development Guidance)

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

REASON: To prevent pollution of the water environment

POLICY: G2 (General Development Guidance)

(6) Notwithstanding the layout shown on the approved site layout drawing FS323-120-13, no development shall commence until a swept path analysis to demonstrate access for a 10.8 metre refuse vehicle. Where the provision of these details may require adjustments to parking layout, any such adjustments shall also be shown on the revised layout drawing. The development shall be carried out in accordance with the approved revised site layout drawing.

REASON: To ensure sufficient turning provision throughout the site

POLICY - G2 (General Design Guidance)

(7) No development shall commence until the detailed design of the surface water drainage scheme for the application site has been submitted to, and approved in writing by, the Local Planning Authority. The relevant scheme shall be based on sustainable drainage principles, have due consideration of the hydrological and hydro geological context of the site and be in accordance with the design criteria set out within the approved Flood Risk Assessment (reference 80139-FRA). It shall also include details of how it is to be maintained and managed after completion, and is to be implemented in accordance with the approved details, before the development is completed.

REASON: To prevent the increased risk of flooding, to improve and protect water quality, and to ensure future maintenance of the surface water drainage scheme.

POLICY: G2 (General Development Guidance)

(8) No development shall take place within the application site until a written programme of archaeological investigation, which should include on-site work and off-site work such as the analysis, publishing and archiving of the results, has been submitted to, and approved in writing by the Local Planning Authority. The approved programme of archaeological work shall be carried out in accordance with the approved details.

REASON: To safeguard the identification and recording of features of archaeological interest.

POLICY - CN21 (Impact on Archaeology), CN22 (Impact on Archaeology), CN23 (Impact on Archaeology)

(9) Development shall be carried out in accordance with the "Waste Minimisation Statement" submitted dated March 2012.

REASON: To ensure the minimisation of waste during construction

POLICY: WCS 6 (Waste Guidance)

Informative – Environment Agency

With regard to condition four above the development should include water efficient systems and fittings. These should include dual-flush toilets, water butts, water saving taps, showers and baths, and appliances with the highest water efficiency rating (as a minimum). Greywater recycling and rainwater harvesting should be considered.

Any submitted scheme should include detailed information (capacities, consumption rates etc on proposed water saving measures). Manufacturer's specifications should not be submitted. Applicants are advised to refer to the following for further guidance:

www.environment-agency.gov.uk/homeandleisure/drought/31755.aspx
www.savewatersavemoney.co.uk

Informative – Environment Agency

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 dated September 1991 or CIRIA Report 156 "Infiltration Drainage, Manual of Good Practice".

Informative – Environment Agency

With regard to condition five above safeguards should be implemented during the construction phase to minimise the risks of pollution from the development. Such safeguards should cover:

- The use of plant and machinery, oils/chemicals and materials
- The use and routing of heavy plant and vehicles
- The location and form of work and storage areas and compounds
- The control and removal of spoil and wastes

The applicant should refer to the Environment Agency's Pollution Prevention Guidelines at: www.environment-agency.gov.uk/business/topics/pollution/39083.aspx

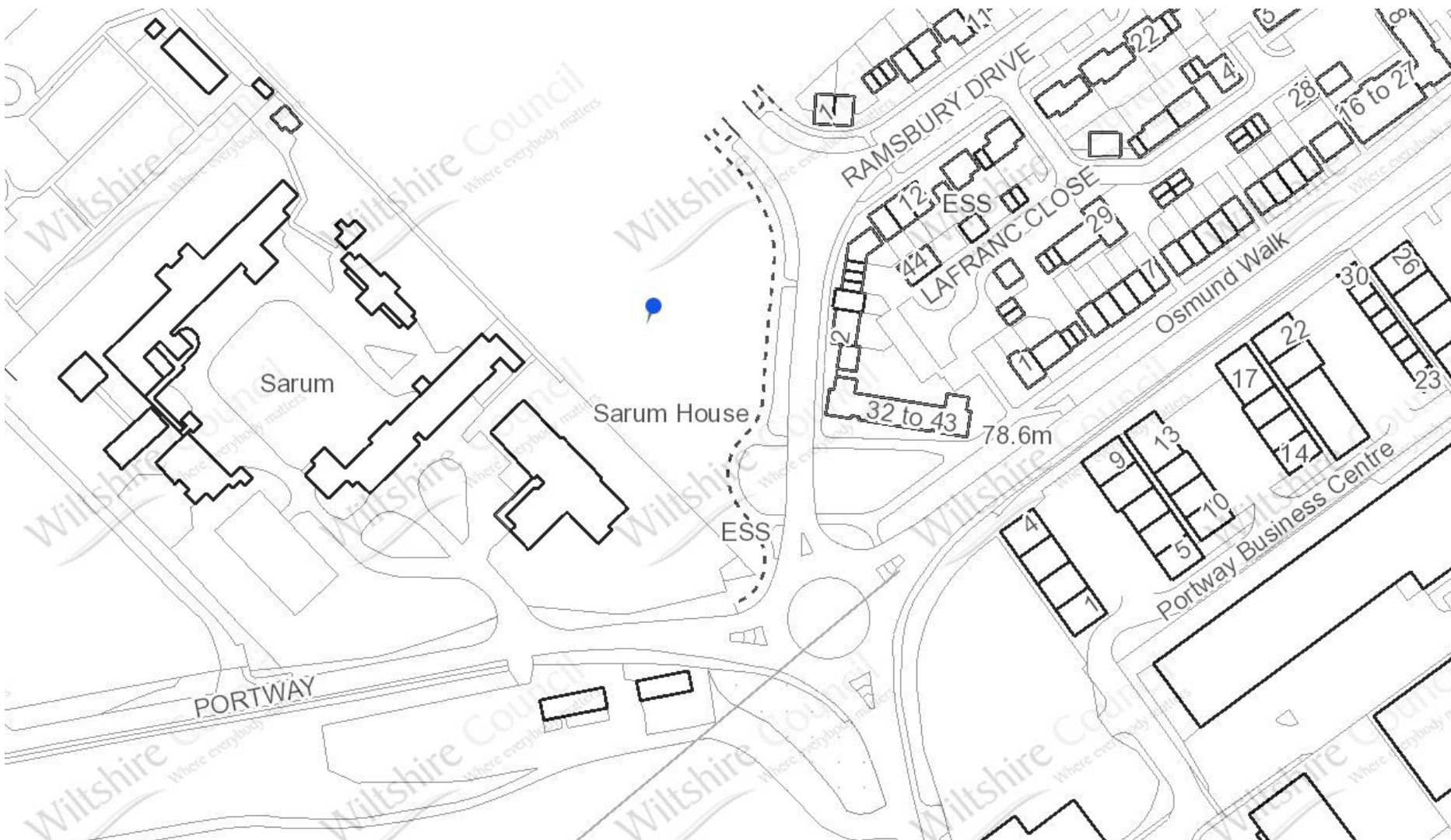
Informative – Archaeology

With regard to condition eight above the work should be conducted by a professionally recognised archaeological contractor in accordance with a written scheme of investigation agreed by this the County Archaeologist and there will be a financial implication for the applicant.

Informative - Wiltshire Fire & Rescue Service

The scale of the project and the complex approach to the fire safety will necessitate the need for joint consultation by the Building Regulations Authority, designer and Fire Authority.

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REPORT TO THE SOUTHERN AREA COMMITTEE

| | | | |
|---------------------------------|--|------------------------------|---------------------|
| Date of Meeting: | 18 th April 2013 | | |
| Application Number: | S/2013/0020/Full | | |
| Site Address: | 37 York Road, Salisbury. SP2 7AT | | |
| Proposal: | Convert 3 bed dwelling to 1 bed ground floor flat and 2 bed first floor flat | | |
| Applicant / Agent: | Mr Uddin / Mr S Mankin | | |
| City/Town/Parish Council | Salisbury City Council | | |
| Electoral Division | St Pauls | Unitary Member | Cllr Richard Clewer |
| Grid Reference: | Easting 413896.9 | Northing 130492.8 | |
| Type of Application: | Minor | | |
| Conservation Area: | Cons Area: NA | LB Grade: NA | |
| Case Officer: | Matthew Legge | Contact Number: 01722 434398 | |

Update following deferral by officers

Background

This planning application was deferred by officers from the 7 March Southern Area Planning Committee agenda. The reason for deferral was in view of concerns raised by third parties about the parking permit schemes.

Parking standards and parking permit schemes

Current parking policy, and the terms and conditions for Wiltshire's resident parking permit schemes, are presented in 'LTP3', which is the third evolution of the Wiltshire Local Transport Plan. LTP3 sets out the Council's objectives, implementation plans and targets for transport in Wiltshire for the period from March 2011 to March 2026.

Regarding parking standards, LTP3 sets out minimum space requirements for residential developments. The standards follow:

| Bedrooms | Minimum Spaces |
|-----------------|---------------------------------------|
| 1 | 1 space |
| 2 to 3 | 2 spaces |
| 4+ | 3 spaces |
| Visitor Parking | 0.2 spaces per dwelling (unallocated) |

LTP3 states that under certain circumstances these minimum standards can be discounted – for example, if a site lies within a sustainable town or city centre

Regarding residents' parking schemes, LTP3 states that these have the following purpose:

“Residents' parking schemes are aimed at tackling problems caused by commuter and shopper parking. All schemes operate between the hours of 8am and 6pm Monday to Saturday inclusive, except public holidays. ... the schemes are not intended to resolve parking problems outside of these times”.

The parking schemes are administered by WC Parking Services. The current terms and conditions of the schemes are set out in the latest version of the Local Transport Plan (LTP3). The process for setting up permit schemes states the following:

“In terms of residential entitlement, this may be based upon a maximum number of permits per household, e.g. one, two or in some cases three. In other cases, permits have been allocated based on the availability of parking spaces (e.g. 75-100% – allow two permits/household and visitors’ permits). Visitor permits may be awarded by the number of people aged over 18 in a household, at set amounts per year or as above based on space availability”.

The terms to be applied in each parking scheme area are a matter for Parking Services to determine and not Development Services. The WC Highways Development Control Officers have been consistent in their responses to planning applications within parking scheme areas, stating that they could not sustain objections to proposals in areas which have good access to public transport and services (and where non-availability of on-street parking is an appropriate deterrent to car ownership in any event). However, the Highways DC Officers have recommended informatives (not conditions) being added to planning permissions stating that permits may not be issued to new developments, in accordance with LTP3.

This planning application

The current application seeks permission to convert an existing house into two flats. The existing house has no off-street parking provision and so it is reasonable to assume that any demand it generates for parking is met on-street. The current minimum parking standard for a ‘new’ 3 bedroom house set out in LTP3 is 2 parking spaces.

The proposed flats would be 1x1 bedroom and 1x2 bedroom. The minimum parking standard for a 1 bed dwelling is 1 space, and for a 2 bed dwelling is 2 spaces. The total minimum parking requirement for this development is, therefore, 3 spaces. This is a net increase of 1 space over the assumed requirement of the existing house.

Under the terms and conditions of the parking scheme the existing house may be entitled to a total of 2 parking permits whereas the two proposed flats may be entitled to a total of 4 parking permits (2 per flat).

The Highways Officer has considered the proposal again, but maintains a ‘no objection’. This is primarily based on the fact this site lies within a sustainable city centre location where good access to public transport and services and limited car parking facilities act as a disincentive to car ownership in any event; and should demand for extra parking materialize then the parking standards anticipate just one additional vehicle over and above existing assumed levels anyway.

Regarding parking permits, the development could result in two additional permits being issued over and above the two permits the existing house may be entitled to. However, these permits would apply primarily to daytime hours only, when officers have not experienced parking congestion in this locality in any event.

The Highways Officer also considers it material that other similar developments have been permitted in the immediate locality.

Reason for the application being considered by Committee

This planning application is before the Planning Committee at the request of Councilor Clewer. Council Clewer has commented:

“There is a history of development both here and in the surrounding roads which local people are strongly opposed to. The main concerns revolve around:

- a) The size of the dwellings which are subdivided to provide very small living spaces.
- b) The issues of parking in the area.

The creation of further sub-divided houses will bring further pressure on the parking situation, particularly when the residents parking Zone is not functioning in the evening.”

1. Purpose of report

To consider the above application and the recommendation of the Area Development Manager (South) that, subject to the landowner entering into an appropriate legal agreement and submitting the relevant financial contribution in accordance with Policy R2 of the adopted Salisbury District Local Plan and Policy CP3 of the South Wiltshire Core Strategy, planning permission be **GRANTED subject to conditions**.

2. Report summary

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

- Principle of development
- Scale, design and materials
- Impact upon neighbour amenity
- Car parking and impact upon highway safety
- Planning obligations

The application has generated an objection from Salisbury City Council and 2 letters of objection from the public.

Neighbourhood Responses

2 letters received objecting to the proposal

No letters of support received

No letter commenting on the application received

3. Site Description

Number 37 York Road is a two storey, three bedroom terraced dwelling house located within a predominantly residential area within close proximity to the city centre. The property has direct street frontage at the front (south east) and an enclosed rear yard at the back (North West) which is accessed via a pedestrian passageway from George Street.

4. Relevant Planning History

The application site has no relevant planning history.

The neighbouring properties – no. 35 York Road and no. 40 George Street – have both in the recent past been granted planning permission for conversion to flats. In the case of no. 35, before planning permission was given the Planning Committee requested additional advice from the WC Highways Officer and WC Solicitor on matters relating to parking and parking permits. This advice remains largely relevant to the current application, and so is re-produced again as follows -

Legal advice on the use of Section 106 Agreements:

Section 106 agreements may not be used to prevent or restrict car ownership per se since this would be an impermissible infringement on the rights of an individual. Such agreements are however used widely to prevent occupiers from applying for or possessing a resident's parking permit in a designated parking bay. Such agreements also commonly exempt holders of a disabled person's badge issued.

Highways advice:

"The Car Parking Strategy for Wiltshire was approved by Full Council on 22nd February 2011 as part of Local Transport Plan 3 (LTP3) for the period 2011-2026. Most areas of guidance remain unchanged from the original guidance developed for LTP1 in 2001, which set out maximum parking standards for a range of use classes. It is considered and evidenced, that car ownership levels are not directly influenced by restrictions in the amount of parking for new development, and of course, by restricting parking provision, other road safety issues can arise. For example in town centres where parking demand is reduced through the availability of services, facilities and public transport and where on street and off street parking is strongly restricted and controlled.

Therefore, in recommending on residential development in Wiltshire where the development is within or very close to town centres and Salisbury city centre, the use of minimum standards can be reduced. Dependant on the scale of the development and its specific location, it would be acceptable to recommend approval where no parking is provided or where a level of parking is provided which can be controlled by the developer Each site must be viewed on its own merits and may involve further assessment through access statements or transport assessments and residential travel plans may, in some cases, be appropriate.

It would clearly be inappropriate for new development to add to the burden of limited on street parking and developers are normally fully aware of the implications for new residents in these central locations. Quite simply, if a new occupation takes place where there is no car provision, car ownership by the individual occupant would present serious practicable problems and, alongside strong parking controls, the occupant is highly unlikely to even consider car ownership in these locations. Whilst there is no means to prevent car ownership, strong factors which discourage ownership apply in most locations within the city centre and near to centre and, of course, each development has to be considered on its own individual merits."

5. Proposal

The proposal is to convert an existing 3 bed dwelling to a 1 bed ground floor flat and a 2 bed first floor flat.

6. Planning Policy

Adopted policies; G2, H8, D3, TR14 and R2 as saved within Appendix C of the adopted South Wiltshire Core Strategy.

Policy 3 of the South Wiltshire Core Strategy

National Planning Policy Framework

7. Consultations

Salisbury City Council:

Objects to the application on the grounds of over development and insufficient parking. Should permission be granted can it be considered that no resident parking permits are issued.

Wiltshire Council Highways:

No objection - note that there is no off-street parking associated with this property. The site is sufficiently close to the town centre facilities and public transport, and on-street parking in York Road is strongly controlled. Any car ownership would be discouraged for occupiers where car parking provision is constrained.

Wiltshire Council Housing:

Confirm that any planning consent should be subject to the applicant entering into a S106 agreement to pay an affordable housing contribution of £7,578 as per Core Policy 3 of the South Wiltshire Core Strategy. The application does not currently address that policy requirement.

Wiltshire Council Environmental Health:

No objection.

Wiltshire Fire & Rescue Service:

General comments.

8. Publicity

Neighbourhood Responses:

2 letters received objecting to the proposal

No letters of support received

Summary of key relevant points raised:

- Overdevelopment in an already densely populated area
- Insufficient parking provision (especially in the evenings)
- Impact on traffic congestion due to the one way road system egressing along York Road.

9. Planning Considerations

9.1 Principle of development

The nearby properties known as no. 35 and no. 40 York Road have already received approval to convert and extend to form flats. In particular, no.35 received approval in 2011 to convert to four single flats. The current application for no. 37 is for fewer flats and will not result in an increase in the number of bedrooms, and does not propose any physical alterations/extensions to the exterior of the building.

The application site, being a two storey terraced house, is located within the H8 Housing Policy Boundary of Salisbury where, except as provided by the other policies of the local plan, residential development will be permitted. In this respect the principle of the proposed development is considered acceptable.

9.2 Scale, design and materials

The application proposes the conversion of the existing building to facilitate the creation of a 1 x no. 1 bed ground floor flat and 1 x no. 2 bed first floor flat with loft conversion. There are no proposed external physical alterations to the application dwelling.

Each of the flats will have an area of outside space which can be accessed by the rear path leading onto George Street. This application proposes that the outdoor areas will accommodate waste/recycle storage and a shed for the parking/storage of bicycles which is in accordance with the saved Local Plan transportation policy TR14.

9.3 Impact on neighbour amenity

The proposed subdivision of the existing house would not change the use class of the property, but would create two separate residential units within the existing property over three floors.

By reason of the layout of the proposed flats, and the orientation and relationship between the property and surrounding residential properties, it is considered the proposed development would not unduly disturb, interfere, conflict with or overlook adjoining dwellings or uses to the detriment of existing occupiers.

9.4 Highway issues

Representations from third parties have raised concerns in respect of the impact of the proposed subdivision on the existing on-street parking in the surrounding area.

The application site is within close proximity to the city centre, local amenities, shops, services and transport links. This, combined with the limited availability of parking in the locality is likely to act as a disincentive to car ownership in any event. The Highways Officer having assessed the proposed development has raised no highway objection.

Administration of the parking permit scheme is a matter for Parking Services.

9.5 Planning obligations

The proposed new residential development would require contributions towards public recreational open space and a financial contribution towards the provision of offsite affordable housing.

10 Conclusion

Subject to the landowner entering into an appropriate unilateral planning obligation and submitting the relevant financial contribution in accordance with saved Local Plan Policy R2 together with policy CP3 of the South Wiltshire Core Strategy, the proposed development is considered to be acceptable. The subdivision of the application dwelling into two flats is not considered to result in harm to neighbouring amenities and is not perceived to result in harm to users of the highway.

Recommendation

That planning permission be GRANTED subject to the applicant entering into a S106 agreement covering the following matters:

1. A financial contribution towards off-site recreation provision; and
2. A financial contribution towards off-site affordable housing provision,

... unless it is demonstrated to the satisfaction of the Area Development Manager that this would undermine the viability of the development;

Subject to the following reason for approval:

The Council is required to give a summary of the reasons for this decision and its conditions, and a summary of the development plan policies and proposals relevant to the decision and its conditions. These are set out below:

The decision to grant planning permission has been taken on the grounds that the proposed development would not cause any significant harm to interests of acknowledged importance and having regard to the National Planning Policy Framework and the following policies in the South Wiltshire Core Strategy, namely Policies G2, H8, D3, TR14 and R2.

In accordance with paragraph 187 of the National Planning Policy Framework, Wiltshire Council has worked proactively to secure this development to improve the social and environmental conditions of the area.

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.

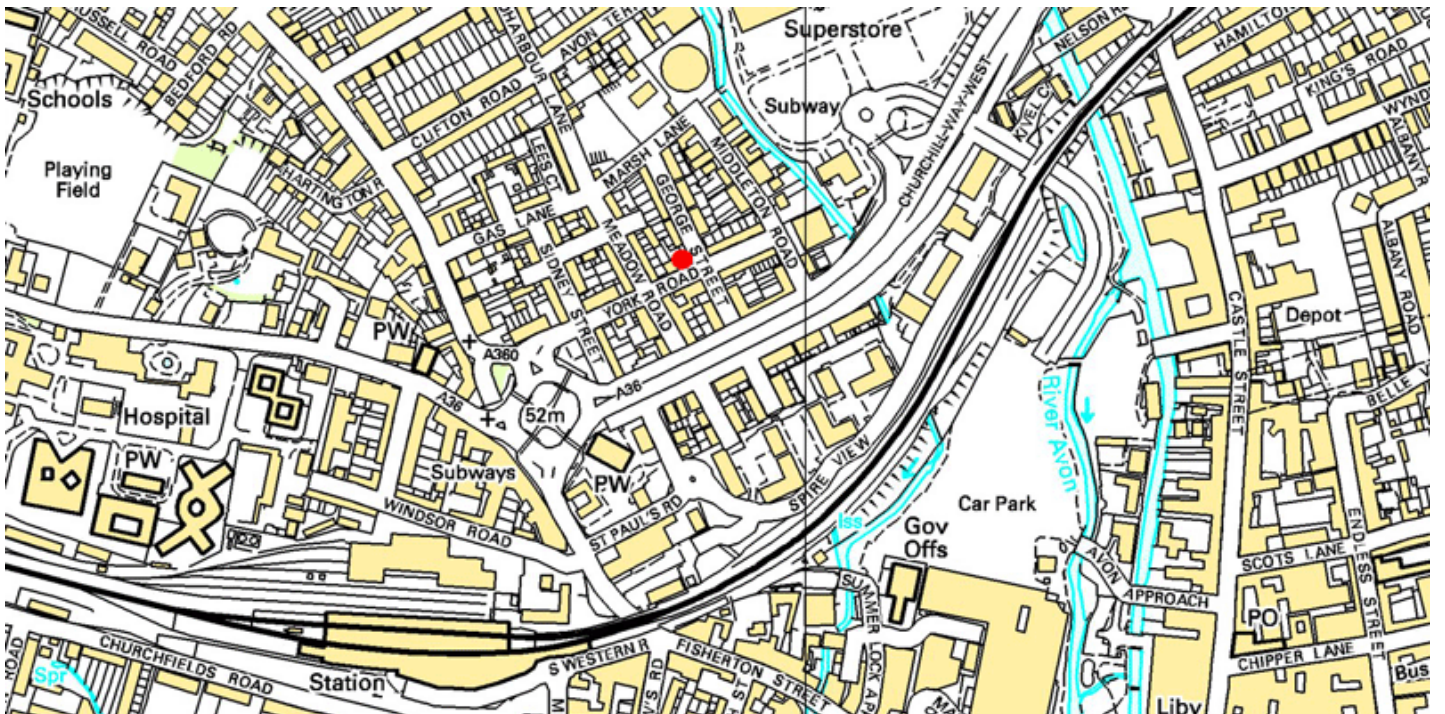
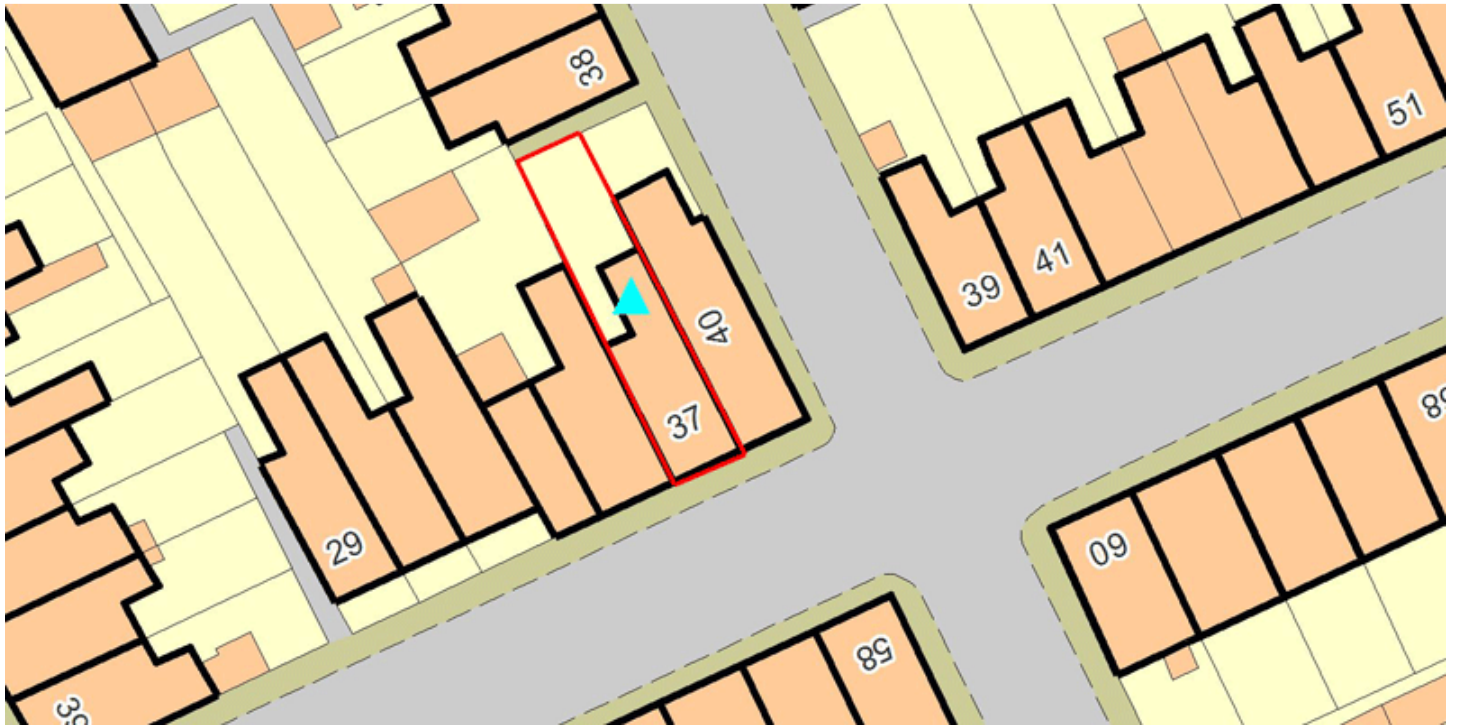
2. This development shall be in accordance with the following submitted drawings:

| | |
|----------------------------|------------|
| DRG No. 12096 2 (21/12/12) | 21/12/2012 |
| Block Plan | 21/12/2012 |

Reason: For the avoidance of doubt

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37 York Road, Salisbury SP2 7AT



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REPORT TO THE SOUTHERN AREA COMMITTEE

| | | | |
|---------------------------------|---|---------------------------------|-------------------|
| Date of Meeting: | 18 th April 2013 | | |
| Application Number: | S/2013/0279/Full | | |
| Site Address: | 12 Burford Avenue, Salisbury. SP2 8AG | | |
| Proposal: | Single storey rear extension and first floor side extension | | |
| Applicant / Agent: | Mr Simon Lock / Mrs Jocelyn Sage | | |
| City/Town/Parish Council | Salisbury City Council | | |
| Electoral Division | Harnham | Unitary Member | Cllr Brian Dalton |
| Grid Reference: | Easting: 414691 | Northing: 128767 | |
| Type of Application: | Other | | |
| Conservation Area: | Cons Area: - NA | LB Grade:- NA | |
| Case Officer: | Mr Ben Hatt | Contact Number: 01722 434580 | |

Reason for the application being considered by Committee

The applicant is an employee of Wiltshire Council, and an objection to the proposal has been received from a neighbouring property. This objection means that an otherwise delegated matter needs to be considered by Members.

1. Purpose of report

To consider the above application and the recommendation of the Area Development Manager that planning permission be **GRANTED** subject to conditions.

2. Report summary

The main issues to consider are:

- Design and impact of the scheme on character of area
- Impact of the scheme on the amenities of the adjacent property

There is one letter of objection from an adjacent neighbour (10 Burford Avenue).

3. Site Description

12 Burford Avenue is semi detached property located within a well established residential area in Salisbury and is within a Housing Policy Boundary.

4. Relevant Planning History

| Application number | Proposal | Decision |
|--------------------|---|----------|
| S/01/1781 | First floor extension to side (6 Burford Avenue) | A/C |
| S/07/0566 | Conversion of existing garage into playroom, modifications to utility area & associated works (8 Burford Avenue). | A/C |

5. Proposal

Single storey rear extension and first floor side extension

6. Planning Policy

Local Plan: policies G1, G2, D3, H16 (as saved within the adopted SWCS)

Core Strategy: no core policies relevant

NPPF

7. Consultations

None

8. Publicity

1 letter of objection raising concerns over loss of light and over development caused by the creation of the proposed first floor extension.

9. Planning Considerations

9.1 Principle

The site lies within a housing policy boundary and as such residential development such as this is acceptable in principle subject to there being no adverse impact on the character of the settlement, the proposal does not conflict with the design policies, and development does not constitute tandem or inappropriate back land development. It is considered that the proposed development is in accordance with saved policy H16 of the adopted Salisbury District Local Plan. In addition to this it is noted that first floor side extensions of a similar design to the proposal have been previously approved (S/2001/1781 and S/2007/0556) in the area.

9.2 Design, scale and siting

The scale and design of the proposed alterations to the property are considered to be acceptable due to the location of proposal to the side and rear of the property. The first floor extension will result in an increase in scale of the property and will alter the characteristics of the property due to the location of the proposal. However, the proposed extension will reflect the existing design of the property which will ensure that the proposal does not overly dominant the existing dwelling or have an adverse impact on the surrounding area. The single storey rear extension will have a limited impact on the character of the property due to its limited scale and location which is screened from view to the surrounding area by well established boundary treatments consisting of close board fencing and hedgerows. The use of matching materials will ensure that the proposal merges with the existing dwelling and surrounding area.

The resultant dwellinghouse will be of a similar scale and design to a number of properties in the immediately surrounding area which will ensure that there is no detrimental impact on the character of the surrounding area and as such is considered to be in accordance with policy D3.

9.3 Impact on neighbour amenity

A letter of objection from No. 10 Burford Avenue has been received which raises concerns over a loss of light as a result of the first floor side extension. The representation states that the extension would impede significantly on the occupiers right to light and daylight levels currently serving the habitable rooms on the ground floor. In addition to this, the objection also raises concerns over the first floor extension being imposing stating that the extension will create a large imposing side wall adjacent to the kitchen door serving the side elevation which would result in an unsightly appearance.

A WC window and adjacent partially glazed door serve the side elevation of No. 10 Burford Avenue. However it is worth noting that natural sunlight will still be available to this elevation. A supporting statement from the applicants has been received which states:

“The outside space between No.10 and their boundary will still receive sunlight as it does at present. With it being on the north west aspect of the house it will be in shadow from number 10 for a good part of the day and later with direct sun being available only for part of the afternoon due to orientation. No.12 will, by virtue of orientation already take late afternoon sunlight from this outside space. Indeed, once the sun position is passed 130 degrees the existing front edge of No.12 will shade this area. Further overshadowing is likely to be negligible as the sun will be further west and lowering in the sky.”

Given that the likely reduction in daylight reaching the side of No.10 would in officers opinion be negligible, it is therefore considered that there is a sufficient distance between the two properties to ensure that there is neither a loss of light or a dominating impact on the neighbouring property.

Furthermore, there is currently a dormer window at first floor level serving No. 12 Burford Avenue which faces directly onto the side elevation of No.10 Burford Avenue. The proposal seeks to remove this dormer window and replace it with a blank façade with windows at the front and rear of the extension. It is considered that whilst the resultant extension would result in an increase in scale it would remove any overlooking issues that currently existing from an unsympathetically sited dormer window.

This type of extension is quite common and would not be unusual in this area. Other similar extension have been approved close by which have a similar relationship and impact to this proposal. It is considered that despite the concerns expressed by the adjacent neighbour, the proposal would represent an improvement in terms of reducing overlooking of the adjacent property. Furthermore, the addition of a first floor extension is unlikely to have significant impacts on the amenities of the occupiers of the adjacent property. However, in order to preserve this improvement, a suitable condition has been suggested which would restrict the future insertion of windows in the side elevation.

10. Conclusion

The proposed single storey rear extension and first floor side extension would be acceptable in terms of impact on amenities, scale and design. Neighbouring amenities would not be unduly disturbed by the development in terms of additional overlooking, given the nature of the proposal. The extensions would not appear unduly dominant from neighbouring properties and their scale would be subservient to the existing dwelling. The proposal would therefore accord with the aims and objectives of the development plan and other Government guidance, having particular regard to Local Plan policies G2, D3, and H16 (as saved within the adopted South Wiltshire Core Strategy).

11. Recommendation

Planning Permission be GRANTED for the following reason:

The Council is required to give a summary of the reasons for this decision and its conditions, and a summary of the development plan policies and proposals relevant to the decision and its conditions. These are set out below:

The decision to grant planning permission has been taken on the grounds that the proposed development would not cause any significant harm to interests of acknowledged importance and having regard to the National Planning Policy Framework and the following policies in the South Wiltshire Core Strategy, namely Policies G2, D3, H16

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. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking or re-enacting or amending that Order with or without modification), no window, dormer window or rooflight, other than those shown on the approved plans, shall be inserted in the (south east) elevation or roofslope of the development hereby permitted.

REASON: In the interests of residential amenity and privacy.

POLICY- G2

3. This development shall be in accordance with the submitted drawing[s] sage20-01, sage20-02 deposited with the Local Planning Authority on 22/2/13, unless otherwise agreed in writing by the Local Planning Authority.

REASON: for the avoidance of doubt.



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