

AGENDA

Meeting: Eastern Area Planning Committee

Place: The Assembly Room - Devizes Town Hall, Devizes, SN10 1BN

Date: Thursday 1 August 2013

Time: 6.00 pm

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

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

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

Membership:

Cllr Mark Connolly (Vice-Chair)
Cllr Stewart Dobson
Cllr Peter Evans
Cllr Nick Fogg

Cllr Richard Gamble
Cllr Charles Howard (Chairman)
Cllr Jerry Kunkler
Cllr Paul Oatway

Substitutes:

Cllr Liz Bryant
Cllr Terry Chivers
Cllr Ernie Clark
Cllr Dennis Drewett

Cllr Jeff Osborn
Cllr James Sheppard
Cllr Philip Whitehead
Cllr Christopher Williams

AGENDA

Part I

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

1 **Apologies for Absence**

2 **Minutes of the Previous Meeting** (*Pages 1 - 6*)

To approve and sign as a correct record the minutes of the meeting held on **20 June 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**

To receive any announcements through the Chair.

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 25 June 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 **Public Right of Way Applications**

6a **CM09489 - Proposed Diversion of Part of Pewsey Bridleway 62 at West Wick House, West Wick, Pewsey (Pages 7 - 44)**

7 **Planning Applications**

To consider and determine the following planning applications.

7a **E/2012/01444/FUL - Manor Farm Allington (Pages 45 - 66)**

7b **E/2012/1216/FUL - Land to the rear of Wilcot Road, Pewsey, SN9 5EL (Pages 67 - 94)**

7c **E/2013/0122/FUL - New Inn, Winterbourne Monkton, SN4 9NW (Pages 95 - 102)**

7d **E/2013/0238/FUL - Land adjacent to Chute Forest Cottage (Pages 103 - 118)**

8 **Urgent items**

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

Part II

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

EASTERN AREA PLANNING COMMITTEE

DRAFT MINUTES OF THE EASTERN AREA PLANNING COMMITTEE MEETING HELD ON 20 JUNE 2013 IN THE WESSEX ROOM, CORN EXCHANGE, DEVIZES, SN10 1HS.

Present:

Cllr Mark Connolly (Vice-Chair), Cllr Stewart Dobson, Cllr Peter Evans, Cllr Nick Fogg, Cllr Richard Gamble, Cllr Charles Howard (Chairman), Cllr Jerry Kunkler and Cllr Paul Oatway

46. Apologies for Absence

No apologies were received.

47. Minutes of the Previous Meeting

The minutes of the meeting held on **30 May 2013** were presented for consideration. It was,

Resolved:

To APPROVE as a true and correct record and sign the minutes.

48. Declarations of Interest

Councillor Charles Howard declared a non-pecuniary interest in Item 6a. Cllr Howard stated that he was personally acquainted with the applicant and would leave the meeting for the Item.

Councillor Paul Oatway declared a non-pecuniary interest in Item 6a. Cllr Oatway stated that he was a close acquaintance of the applicant and Chairman of the Parish Council and wanted to speak on their behalf. As a result of this Cllr Oatway stated that he would not sit on the committee for the item

49. Chairman's Announcements

The Chairman gave details of the emergency exits in case of a fire.

50. Public Participation and Councillors' Questions

The Committee noted the rules on public participation.

There were no questions submitted.

51. **Planning Applications**

52. **E/2013/0261/FUL - Glebe House, Milton Lilbourne, Pewsey, Wilts, SN9 5LQ**

Public Participation

Mr Alex Oliver (Architect) spoke in support of the Application.

Mr Michael Kitching (Transport Consultant) spoke in support of the application.

Cllr Paul Oatway spoke in support of the application on behalf of Milton Lilbourne Parish Council.

The Chairman left the room for this item following the Declaration of Interest made at the start of the meeting. Vice Chairman Cllr Mark Connolly chaired this item in the absence of Cllr Charles Howard.

The Planning Officer introduced the report which recommended refusal, as well as drawing attention to and summarising late items as attached to these minutes. The key issues were stated to include the principle of the proposed development and its consideration as an 'infill' site. Other considerations included; the scale and harmony of the planned development, the access to the site and impact on highway safety.

The Committee then had the opportunity to ask technical questions of the officer. These included adopted road status, and the turning space available to vehicles on the driveway.

The Local Member, Councillor Jerry Kunkler then spoke in support of the application.

A debate followed on the size and stature of the lane upon which the development was situated. During the debate issues of capacity, road safety, pedestrian safety and suitability were discussed. At the end of the debate it was,

Resolved:

That planning permission be DELEGATED to officers, to APPROVE subject to creation of conditions relating to standard time scales of development, materials landscaping and tree protection and turning space on the driveway.

53. **13/00054/FUL - Homesteads, Rivar Road, Shalbourne, Marlborough, SN8 3QE**

Public Participation

Mr George Lewis (Agent) spoke in support of the application.

The Planning Officer introduced the application and details of the report which recommended that planning permission be refused. The main issues for consideration were the character and setting of the listed building and the preservation and enhancement of the Shalbourne Conservation Area.

The Committee then had the opportunity to ask technical questions of the Officers.

The Chairman then read a statement from Divisional Member, Cllr Stuart Wheeler who outlined his support for the application.

Members then debated the scale of the extension, when added to the existing extension and the impact that the planned works would have on the preservation of the building and its setting and its architectural and historic interest..

At the culmination of the debate it was;

Resolved:

To REFUSE planning permission for the following reason:

The scale of the proposed extension in relation to the original dwelling and the deviation away from the established plan form would harm the character and setting of the listed building and diminish its significance as a designated heritage asset. The extension would also fail to preserve the character or appearance of the conservation area. As such, the proposal is contrary to government policy contained within Section 12 of the NPPF, guidance contained in the PPS5 Practice Guide, policy PD1 of the adopted Kennet Local Plan 2011 and supplementary planning guidance contained in the Shalbourne Conservation Area Statement.

54. **13/00067/LBC - Homesteads, Rivar Road, Shalbourne, Marlborough, SN8 3QE**

Following the debate had in the previous item (13/00054/FUL), members

Resolved:

To REFUSE listed building consent for the following reason:

The scale of the extension in relation to the original dwelling and the deviation away from the established plan form would harm the character and setting of the listed building and diminish its significance as a designated heritage asset. As such, the proposal is contrary to government policy contained within Section 12 of the NPPF and guidance contained in the PPS5 Practice Guide.

55. **E/2011/1231/FUL - 4 - 6 Andover Road Ludgershall Andover SP11 9LZ**

Mr Appleby (Agent) spoke in support of the application.

Mr Owen White representing Ludgershall Town Council spoke in objection to the application.

The Area Development manager introduced the report and outlined the key areas for consideration. These included the impact on the character and appearance of the Conservation Area; its effect on the amenities of nearby residential properties, and the provision of parking facilities to serve the new dwellings.

Members then asked technical questions of the application around parking and the flats above shops policy. Members also questioned the listed building status of the surrounding buildings. These were clarified as being buildings of local architectural significance, but were not listed.

Local Member Cllr Christopher Williams addressed the committee and outlined his opposition to the development. Cllr Williams stated that the design was not sympathetic to the surrounding area, did not provide sufficient parking arrangements and proposed unsuitable arrangements for vehicle access.

The Committee then debated the application and questioned the access to and from the site. Members also discussed the parking arrangements and character and appearance of the proposed building.

At the culmination of the debate it was,

Resolved:

To REFUSE planning permission for the following reasons:

REASON

The proposed development would have an adverse impact on the character and appearance of the Ludgershall Conservation Area, with its open ground floor frontage, elevational treatment and roof design being not in keeping with the two significant unlisted buildings on either side of the site frontage. This would conflict with policy PD1 of the Kennet Local Plan and with paragraph 137 of the National Planning Policy Framework.

The proposed parking arrangements are contrived and would, in practice, be unlikely to work satisfactorily due to the restricted space for manoeuvring. When combined with the restricted visibility from the access point, the end result is likely to have an adverse impact on road safety, with vehicles potentially reversing onto the A342. This would conflict with policy PD1 (4) of the Kennet Local Plan.

56. **E/2012/1459/FUL - The Wickets, Dragon Lane, Manningford Bruce, Pewsey SN9 6JE**

No members of the public spoke in support or objection to this application.

The Area Development Manager outlined the report and the key areas for consideration including the impact on road safety and appearance on the area.

The application was brought back to committee following the previous decision to defer and delegate the application to officers, to negotiate an amended position for the new access. The applicant had not wished to change the position of the access and so the application was brought back to the committee for a decision

Members then entered a discussion around the impact and appearance of the planned access on the landscape. Following the debate it was,

Resolved:

To REFUSE the application for the following reason:

REASON

The construction of this access in this location on this quintessentially rural lane would have an adverse impact on the character and appearance of the landscape of this part of the North Wessex Downs Area of Outstanding Natural Beauty, by the introduction of an essentially urban feature and the excavation of the bank. This would conflict with policy PD1 (3) of the Kennet Local Plan and paragraph 115 of the National Planning Policy Framework.

57. **Urgent items**

There were no urgent items to consider.

(Duration of meeting: 6.00 pm – 8.00 pm)

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

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

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WILTSHIRE COUNCIL

AGENDA ITEM NO. 6a

EASTERN AREA PLANNING COMMITTEE

1 AUGUST 2013

**PROPOSED DIVERSION OF PART OF PEWSEY BRIDLEWAY 62
AT WEST WICK HOUSE, WEST WICK, PEWSEY**

**THE WILTSHIRE COUNCIL PARISH OF PEWSEY PATH NO. 62 (PART) DIVERSION
ORDER AND DEFINITIVE MAP AND STATEMENT MODIFICATION ORDER 2012**

Purpose of Report

1. To:
 - (i) Consider and comment on objections received to an Order, made under Section 119 of the Highways Act 1980 which seeks to divert part of Bridleway Pewsey No. 62 at West Wick House, Pewsey.
 - (ii) Recommend that the Order be forwarded to the Secretary of State for Environment, Food and Rural Affairs (SoSEFRA) for confirmation.

The proposed diversion is shown on the Order attached at **Appendix A**.

An overview plan showing the surrounding roads and rights of way is attached at **Appendix B**.

The Decision Report to make the Order is attached at **Appendix C**.

A summary of objections and representations is attached at **Appendix D**.

Documents circulated by officers when seeking withdrawal of objections at **Appendix E**.

Background

2. It is a discretionary power of Wiltshire Council to consider applications from landowners to divert, create or extinguish footpaths, bridleways and restricted byways and make Orders under Sections 119, 116, 25, 26 and 118 respectively of the Highways Act 1980.
3. On 16 May 2012 Mr. Gerard Griffin of West Wick House, Oare, applied to Wiltshire Council to divert part of Bridleway 62 from where it leads through his property at West Wick House and Farm to a field edge route to the north over land held in trust by the executors of the Lord Devlin Will Trust.
4. The application was accompanied by a letter of consent from the executors of the Lord Devlin Will Trust and e-mails from a representative of the Ramblers Association and the British Horse Society, Wiltshire Council's senior rights of way warden and a representative of Pewsey Parish Council, all of whom expressed that they had no objection to the proposal. The British Horse Society representative expressed concerns about the surface to be used for the new path.

5. Wiltshire Council conducted an initial consultation for the proposed diversion and informed consultees that the landowner's reasons for the diversion were as given in the application form. That is: *"that the interaction between pedestrians, horse riders, farm machinery and other vehicles is potentially dangerous in addition to the close proximity of the existing house reducing the enjoyment of the property on privacy and security grounds."*
6. There were no objections from statutory undertakers and other consultees and a response from Wiltshire Bridleways Association approved the proposed diversion but requested that the four metre wide field edge route be regularly maintained, not eroded and adequately way-marked.
7. It was considered that the legal tests for making the Order were met (see **Appendix C**) and the Order made and duly advertised between 8 November and 7 December 2012.
8. It is a requirement of the law that notices of making the Order are posted on site. The purpose of this is to bring the matter to the attention of users of the path and subsequent to the posting of notices a number of objections and representations were received.
9. Objections received during the advertisement period are considered as duly made objections and unless withdrawn the Council may not confirm the Order. An Order that has outstanding objections may only be abandoned by the Council or be confirmed by the Planning Inspectorate acting for SoSEFRA.

Duly Made Objections and Representations

10. The Council has received 19 objections (plus one received after the advertisement period had expired) and three representations in respect of this Order. These are summarised at **Appendix D**. Copies of the objections and representations in full may be viewed at the Rights of Way Section, Newbury House, Trowbridge, or are available on request from Sally Madgwick (sally.madgwick@wiltshire.gov.uk).
11. Officers wrote to all objectors to assure them that the diverted route would have an all weather surface, minimal gradients and ample width, all of which would mirror the existing route in terms of accessibility, and that it would only become the new right of way when the Council certified that it was acceptable. The opportunity was also taken to circulate a detailed map and letter from the applicant (see **Appendix E**). Objectors were invited to withdraw their objections.
12. Seven responses were received, five wished to sustain their objection, one withdrew and another conditionally withdrew. There are, therefore, now 18 outstanding objections. **Appendix E** highlights respondents.

Main Considerations for the Council

13. Wiltshire Council has the power to make Orders to divert public paths under Section 119 of the Highways Act 1980. The Order may be made in the interest of the landowner (as this is) and can only be confirmed if the new path or way will not be substantially less convenient to the public, having regard to the effect of the diversion on the public enjoyment of the path or way as a whole.
14. The Council has received objections to the proposed Order and Members have to decide whether they wish to support the Order, which must then be forwarded to the Secretary of State for determination, or formally resolve not to proceed with it.

15. Section 119(1) of the Highways Act 1980 states that:

“Where it appears to a Council as respects a footpath, bridleway or restricted byway in their area (other than one 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”.

16. Section 119(2) of the Highways Act 1980 states:

“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”.*

17. The Committee must now consider the second test under Section 119(6) which must be met at the Order confirmation stage.

“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 Sub-section (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.*

18. The Council has to have regard to The Equality Act 2010 (formerly the Disability Discrimination Act 1995 – DDA95). Broadly, this requires that public authorities must make reasonable adjustments to ensure that it is not impossible or unreasonably difficult for people with disabilities to benefit from those functions as others would do, or to show that there are good reasons for not doing so.

19. There is no specific reference in the Equality Act to any aspect of rights of way management; however, guidance issued by the Department for Environment Food and Rural Affairs (Defra) in October 2010 is clear that authorities are required to have regard to their obligations under the Equality Act 2010 wherever changes or additions to the rights of way network are proposed.
20. The Council must also have regard to the Wiltshire Council Rights of Way Improvement Plan (ROWIP). The ROWIP recognises the Council's duty to have regard to DDA95 and to consider the least restrictive option.
21. The ROWIP also has as its aims:
 - *The promotion and development of the public rights of way network, enabling pedestrians, cyclists and horse riders to avoid heavy or intrusive traffic. (p.46.3)*
 - *To provide a more usable public rights of way network, suitable for changing user demands. (p.46.1)*
 - *Increase access to the countryside for buggies, older people, people with mobility problems and other impairments. (p.43.1 – 5)*
 - *Increase access to the countryside for people who are blind or partially sighted. (p.43.4 and 5)*
22. The Council must also have regard to the needs of agriculture and forestry.

Consideration of the Objections

23. The Council must consider the provisions of Section 119 of the Highways Act 1980 in reaching a decision.
24. **Section 119(1) and (2)** relate to the making of the Order. The Order was made because it was considered that it was expedient in the interests of the landowner to move the path (**S.119(1)**). This is evidenced by the application (for which they are liable to all actual costs incurred) and by the fact that the diversion would remove the right of way from their land and the proximity of their house and buildings. Officers do not consider the movement of vehicles to represent a sufficient risk to the public to have made the Order in their interest.
25. It was also considered that **S.119(2)** was met in that the new termination point could be substantially as convenient as the existing. Currently, the site is overgrown, has a soft surface and a sharp gradient at one point. The construction of a new termination point would have to be as convenient as the old. The slope would need to be graded, a width in excess of four metres cleared (to allow leeway for seasonal growth) and a dry compacted surface supplied before Wiltshire Council could certify that the path is acceptable to become a highway maintainable at public expense. If the new path is not accepted by Wiltshire Council, and certified as such, a confirmed Order does not come into effect, the definitive map and statement is not changed and the old route remains the public right of way. The applicant has agreed that the new path should have a well drained compacted surface, be properly constructed and any sharp gradients graded.
26. It is noted that some objectors have stated that the adjoining path (Pewsey 23) is narrow and overgrown at this point. The cutting back of the overgrowth from adjoining land is the responsibility of that landowner and it is a duty of the Council to enforce that rights of way are not obstructed in these ways. This is not a reason to consider that the termination point is less convenient as Pewsey 23 has a recorded width of 3.5 metres which should be available to the public. The Council must consider this path as if it were fully available.

27. **Section 119(6)** relates to the confirmation of the Order and it is important that due consideration is given to the objections and representations in respect of this.
28. **Section 119(6)** requires that the new path must not be substantially less convenient to the public. 15 of the respondents (14 objectors and one representation) expressed concerns relating to the new route being potentially difficult to use owing to mud, ruts, gradient and poor drainage. It is agreed that all of these factors would make the route substantially less convenient to use. However, a well constructed and clearly defined track on the proposed new line would be usable all year round and would be unlikely to be substantially less convenient.
29. The proposed new route is approximately 20 metres longer (approximately 3.5% of the length of the whole route) than the existing route and since its use is primarily for recreation, it cannot be considered substantially less convenient for this reason.
30. The Council's duty with regard to The Equality Act 2010 must also be met in this regard and it has a duty to ensure that the new route is at least as accessible as the existing. Officers believe that it is possible to achieve this with good construction and a well drained surface.
31. **Section 119(6)(b)** requires the Council to consider the effect on land served by the existing right of way. All of the land served by the section that is proposed to be diverted belongs to the applicant and it is considered that there is no adverse effect to consider.
32. **Section 119(6)(c)** requires the Council to consider the effect on land over which the new right of way is created and on any land held with it. The land over which the new right of way would lead is not owned by the applicant. It forms part of the estate administered by the Trustees of the Lord Devlin Will Trust and the Executors of the late Lady Devlin and express permission has been granted for the new right of way to pass over the land and for the path to be made up to a standard acceptable for a bridleway.
33. **Section 119(6)(a)** requires the Council to consider the effect of the diversion on the public enjoyment of the way as a whole.
34. It is clear from both consultation responses and duly made objections and representations that there are a wide range of views on the value of the existing route to the rear of West Wick House. While some parties (for example the Parish Council) find the loss of the existing route unremarkable, others find the historic context an intrinsic part of the route that they enjoy.
35. The new route gives more extensive views of West Wick House than the existing route and allows the public to see the setting of the property in its grounds and garden much better but it is undeniable that if part of the enjoyment of the route is derived from using a historic route then the new route could never replace the old.
36. It is noted that although Bridleway Pewsey 62 as a whole has a sense of direction and purpose, it does not do so at West Wick House. This can be readily seen at **Appendix B** where the straight line of the east west path is disturbed only by the turns past structures at West Wick House.
37. It is considered that this existing loss of sense and purpose of the route, considered alongside the variety of responses (not everyone objected to the diversion), reduces the weight that the Council can put on the value of the historic route. This is further reduced by the views of West Wick House and gardens from the new route, that are not seen from the old route.

Environmental Impact of the Recommendation

38. There are no significant environmental implications arising from the recommendations set out within this report.

Risk Assessment

39. There are no known risks associated with the proposals.

Financial Implications

40. The making of a public path Order is a discretionary power, rather than a statutory duty. Applicants pay actual costs relating to the Order but should the Orders be submitted to the Secretary of State, Wiltshire Council must pay additional costs.
41. Additional costs related to submitting the Orders to the Secretary of State could be variable, depending on how the Planning Inspectorate decides to determine the Orders. A determination under the written representations procedure involves officer time of approximately eight hours; should the Orders be determined at a hearing, costs are likely to not exceed £200 and approximately 16 hours of officer time. Should the Orders be determined at an Inquiry, it is usual for counsel to be appointed and total costs are likely to be approximately £5,000.

Options to Consider

42. The following options have been considered:
- (i) Not to continue with the Order.
 - (ii) To forward the Order to SoSEFRA with the recommendation that it is confirmed as made.

Reason for Recommendation

43. The proposed diversion meets the tests contained in Section 119 of The Highways Act 1980.

Recommendation

44. That the Order be referred to SoSEFRA for determination with the recommendation that it be confirmed as made.

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

None

PUBLIC PATH DIVERSION AND DEFINITIVE MAP AND STATEMENT MODIFICATION ORDER**HIGHWAYS ACT 1980****WILDLIFE AND COUNTRYSIDE ACT 1981****WILTSHIRE COUNCIL**

The Wiltshire Council Parish of Pewsey Path No. 62 (part) Diversion Order 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 Pewsey Rural District Council definitive map and statement dated 1952 as modified under the Wildlife and Countryside Act 1981 require modification in consequence of the occurrence of an event specified in section 53(3)(a)(i) of the 1981 Act, namely the diversion (as authorised by this Order) of a highway shown or required to be shown in the map and statement.

BY THIS ORDER

1. The public right of way over the land situate at Pewsey and shown by a bold continuous line on the map contained in this order and described in Part 1 of the Schedule to this order shall be stopped up after 28 days from the date of confirmation of this order, and thereupon the Pewsey Rural District Council definitive map shall be modified by deleting from it that public right of way.
2. There shall be at the end of 28 days from the date of confirmation of this order be a public bridleway over the land situate at Pewsey and as described in Part 2 of the Schedule and shown by a broken black line with cross bars in the intervals on the map contained in this order, and thereupon the Pewsey Rural District Council definitive map shall be modified by adding that path to it.
3. The Pewsey 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

Path as shown as a bold black line (A – B) on the plan attached hereto leading from its junction with path number 23 in a westerly direction past West Wick House to OS grid ref. SU 1718 6265.

Width 3 metres Approximate length 290 metres

PART 2

DESCRIPTION OF SITE OF NEW PATH OR WAY

Path as shown as a broken black line with cross bars in the intervals intervals (A - C) on the plan attached hereto from Pewsey path no. 23 north of West Wick leading west and generally south south west and south south east to OS grid ref. SU 1742 6277.

Width 4.0 metres Approximate length 310 metres

PART 3

MODIFICATION OF DEFINITIVE STATEMENT

VARIATION OF PARTICULARS OF PATH OR WAY

Parish	Number	Details	Section
Pewsey	62	<u>BRIDLEWAY</u> From the Wilcot Parish boundary at Oare leading east towards West Wick Farm where north north east and generally east to its junction with path No. 23 at OS grid ref. SU 1742 6277 north of West Wick.	53(3)(a)(i)

Width 3 metres except for section where 4.0 metres from OS grid ref. SU 1718 6265 to SU 1742 6277

Approximate length 546 metres

THE COMMON SEAL of }
WILTSHIRE COUNCIL }
was hereunto affixed this }
18TH day of OCTOBER 2012 }

James L...

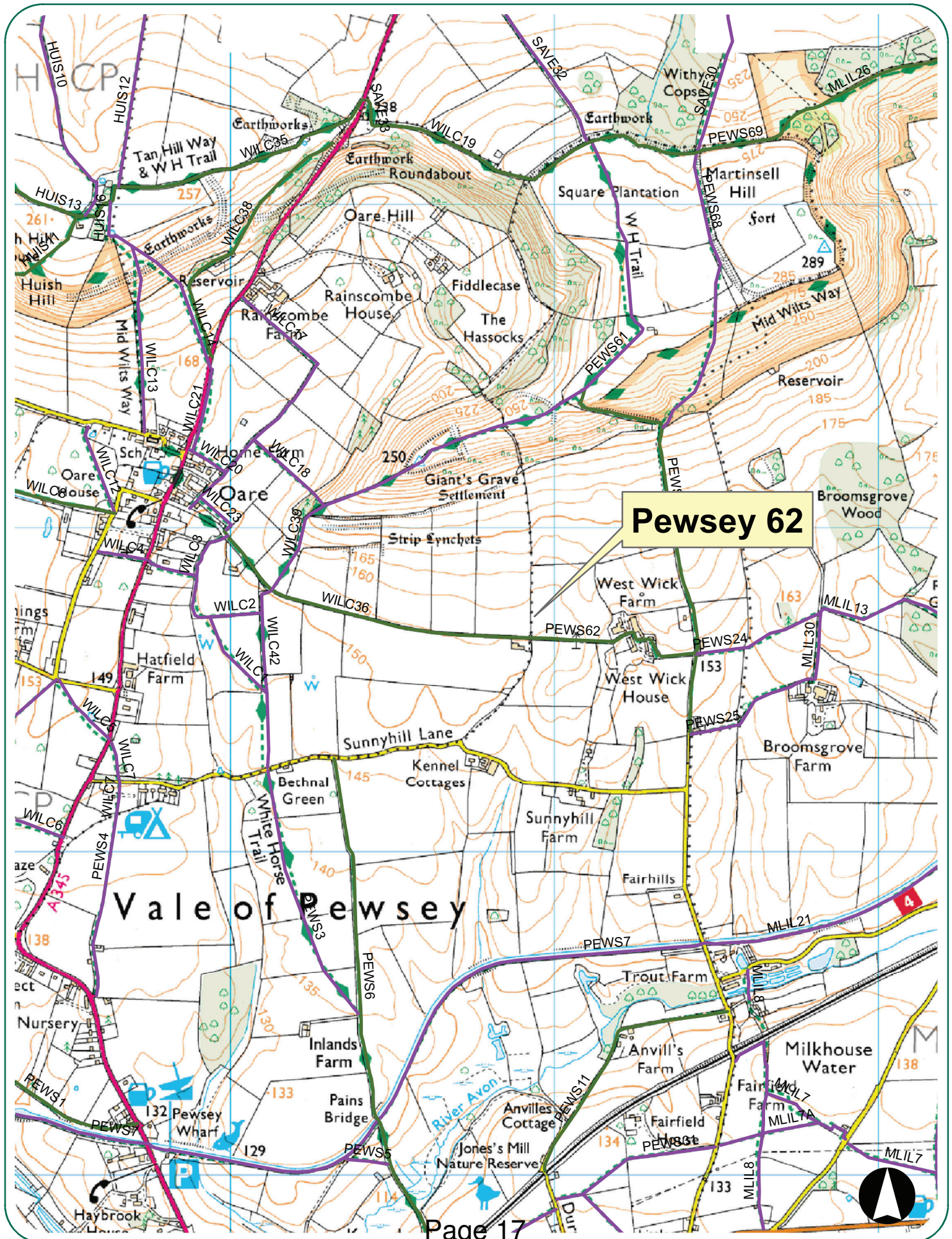


In the presence of : -

Principal Solicitor

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Appendix B Overview of Rights of Way
 Purple = footpath Green = bridleway Red = restricted byway



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DECISION REPORT - HIGHWAYS ACT 1980 S.119

PROPOSED DIVERSION OF PEWSEY PATH No. 62 (part)

1.0 Purpose of Report

- (i) To consider an application to divert part of bridleway Pewsey no. 62 at West Wick Farm.
- (ii) To recommend that Wiltshire Council makes an order under s.119 of the Highways Act 1980 (HA80) and the Wildlife and Countryside Act 1981 (WCA81) to effect this change.

2.0 Background

- 1 On 17 May 2012 Wiltshire Council received an application from Mr Gerard Griffin of West Wick House, Oare, Pewsey, SN9 5JZ to divert part of bridleway 62 from land he owns at West Wick Farm to land owned by the Trustees of the late Lord Devlin's Will Trust and the Executors of the late Lady Devlin.
- 2 A letter dated 03 May 2012 and signed by Gil Patrick Devlin on behalf of the Trustees of the Lord Devlin Will Trust and the Executors of the late Lady Devlin was submitted with the application and confirms that consent has been granted for the diversion.

"I can confirm that the Trustees and Executors agree for this new route to pass over our land and give Gerard Griffin and his successors in title the right to make the path up to a standard acceptable for a bridleway."
- 3 The land over which the proposed new route will lead is farmed by the applicant and recorded as the West Wick Farm Partnership of West Wick House, Oare, Pewsey.
- 4 The existing route leaves bridleway Pewsey no. 23 east of West Wick House and leads along a hard track and through a farm yard area, past West Wick House and onto a track leading west into the parish of Wilcot.
- 5 The proposed new route would leave bridleway Pewsey no. 23 north east of West Wick House and would lead along a field edge and soft track before joining the original route west of West Wick House. Thus effectively bypassing the farmyard over a route to the north.
- 6 The fields are arable and there are no gates along the proposed new route.

7 Application plan:

Route to be extinguished highlighted in yellow. Proposed new route coloured green.



8 Pewsey path no 62 was added to the Pewsey Rural District Council definitive map and statement in 1952 as a bridleway with a width of 10 feet and has been unaltered since that time.

9 The statement reads:

Pewsey 62 BRIDLEWAY. From the Wilcot Parish boundary at Oare leading east through West Wick Farm to path No.23.

Approximate length 526m

Width 3m

- 10 Extract from definitive map: Footpaths are purple, bridleways are green. Black dashed lines are parish boundaries.



- 11 Existing route: Bridleway 62 leading west from its junction with bridleway 23.



Proposed diversion of Pewsey bridleway 62 (part)

12 Existing route leads past farm buildings as it leads west towards Wilcot parish.



13 Existing route follows track leading to Wilcot parish. Section proposed for extinguishment ends by gate here.



Proposed diversion of Pewsey bridleway 62 (part)

- 14 Proposed new route leads from white arrow at gate above in para. 13 along field edge. 4 metre wide strip would need to be maintained.



- 15 Proposed new route follows track linking fields.



- 16 Proposed new path leads eastwards along field edge. 4 metre wide strip needs to be retained.



- 17 Proposed new path joins bridgeway 23. Gap in hedgeline and graded slope needs to be established.



18 The applicant gives the following reasons for the diversion of this path:

“Current route passes through existing farmyard as well as within a few metres of West Wick House. Reasons for diversion are safety to pedestrians and horses from agricultural machinery and privacy.”

19 One of the features of the proposed new route are the extensive views that are offered from it: First picture to the north, second and third to the south.



3.0 Consultation

20 An initial consultation into the proposal was carried out between 07 August 2012 and 14 September 2012. The following letter was circulated:

Highways Act 1980 S.119

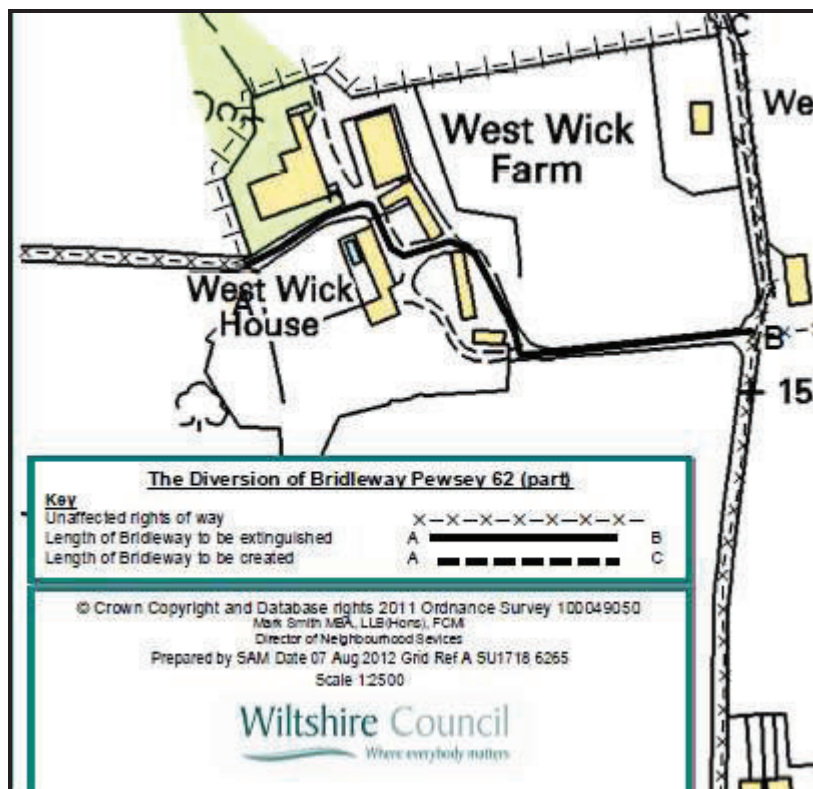
Proposed diversion of part of bridleway Pewsey 62 at West Wick Farm

Wiltshire Council has received an application to divert part of bridleway Pewsey 62 at West Wick Farm. Please find enclosed a location plan and a plan showing the proposal.

Currently the route (A – B) leads past West Wick Farm buildings and house and it is proposed to divert it over land to the north. The new route would have a width of 4 metres, no additional gates and leads along arable field edges and across a short wooded section. The reasons given for the proposal are that the interaction between pedestrians, horse riders, farm machinery and other vehicles is potentially dangerous in addition to the close proximity of the existing path to the house reducing the enjoyment of the property on privacy and security grounds.

The applicant has already gained the approval of the Ramblers, British Horse Society and Parish Council but if there are any further comments I would be pleased to receive them by Friday 14 September 2012.

21 The following plan was circulated:



22 The letter and plan went to the following consultees:

The Auto Cycle Union
Commons, Open Spaces & Footpaths
Wiltshire Bridleways Association
Cycling Touring Club
British Horse Society
Pewsey Parish Council
Wiltshire Councillor J Kunkler
Wiltshire British Horse Society representative
Byways and Bridleways Trust
Wiltshire Council Senior Rights of Way Warden Esther Daly
Wiltshire Ramblers representative
Wiltshire Council County Ecologist
Marriotts, Chartered Surveyors (agent)
Mr G Griffin (applicant)
The Lord Devlin Will Trust (landowner)
Wessex Water
Scottish and Southern Electric
Virgin Media
Linesearch (includes National Grid Gas and Electricity)
Openreach BT
Thames Water

4.0 Consultation Responses

23 No consultation responses were received.

24 Accompanying the application were a number of responses which arose from pre-application discussions that the applicant had held. This is perhaps the reason why no responses were received to the Council's consultation. These responses were as follows:

25 Ramblers Association 14 March 2012

"I have now been out to Oare and seen the proposed diversion at West Wick House. I met your client and he showed me the new line to be followed. On behalf of the Ramblers Association I have no objections provided that the proposed diversion is well maintained on the ground and any gates/stiles are user friendly."

26 British Horse Society 29 February 2012

"Great to meet you yesterday and to hear about the plans for the diversion. The BHS would have no objection to the proposal, our concerns would be for the surface to be used. Riders would prefer a more stable durable surface so that it does not go

boggy. A well drained grass track or mix of grass/gravel or compacted scalplings (which would be a permanent solution) would be brilliant.”

27 Pewsey Parish Council 05 April 2012

“Raised this at tonight’s meeting. It was proposed to accept your request for diversion, and motion carried by a large majority. I will forward a copy of the minutes when they are accepted, but I can confirm your proposal was accepted.”

28 Wiltshire Council Rights of Way Warden 06 February 2012

“I can’t see any objection to the proposal from my point of view, but obviously I can’t speak for the parish council and any of the user groups and local people who may have different ideas”

29 On 05 September 2012 the case officer and the rights of way warden held a site visit and walked both routes. It was observed that the existing route was available for the public to use and wholly unobstructed. It was also observed that the proposed new route would need to be created to provide a level, well drained surface that was not at risk from ploughing or disturbance. It was also noted that some grading of the slope where the new route met bridleway 23 would be required.

5.0 Considerations for the Council

30 Wiltshire Council has the power to make orders for the diversion of public paths under s.119 of the Highways Act 1980.

31 Section 119(1) of the Highways Act 1980 states that:

“Where it appears to a Council as respects a footpath, bridleway or restricted byway in their area (other than one 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.

32 Section 119(2) of the Highways Act 1980 states:

“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”.

33 Although the Council is only required to consider s.119(1) and (2) to make an order it is clear that it is appropriate for it to also consider s.119(6) at the order making stage.

34 In *Hargrave v Stroud DC* [2002] EWCA Civ 1281, Schiemann L.J. stated that:

“On the face of the subsection therefore the authority has discretion as to whether or not to make an order. I do not consider that the mere fact that it is expedient in the interests of the owner that the line of the path should be diverted means that Parliament has imposed on the authority a duty to make such an order once it is satisfied that this condition precedent has been fulfilled.”

35 Subsection (6) sets out factors which are to be taken into account at the confirmation stage. However, it has been held that the Authority is entitled to take these factors into account at the order making stage. In *Hargrave v Stroud* (above), Schiemann L.J. held that:

“...the authority faced with an application to make a footpath diversion order is at liberty to refuse to do so. In considering what to do the Council is, in my judgment...entitled to take into account the matters set out in s.119(6). It would be ridiculous for the Council to be forced to put under way the whole machinery necessary to secure a footpath diversion order where it was manifest that at the end of the day the order would not be confirmed.”

36 Additionally after making an order the Council should also consider the second test under Section 119(6) which must be met at the Order confirmation stage.

“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 Sub-section (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*

37 The Council must have regard to The Equality Act 2010. This act requires (broadly) that in carrying out their functions, public authorities must make reasonable adjustments to ensure that a disabled person is not put at a substantial disadvantage in comparison with a person who is not disabled. The Equality Act goes further than just requiring a public authority does not discriminate against a disabled person. Section 149 imposes a duty, known as the “public sector equality duty”, on the public bodies listed in sch. 19 to the Act, to have due regard to three specified matters when exercising their functions.

38 These three matters are:

- Eliminating conduct that is prohibited by the Act
- Advancing equality of opportunity between people who have a disability and people who do not; and
- Fostering good relations between people who have a disability and people who do not.

39 The Equality Act applies to a highway authority’s provision of public rights of way services. (DEFRA Guidance *Authorising structures (gaps, gates and stiles) on rights of way* Oct 2010)

40 The Council must also have regard to the Wiltshire Council Rights of Way Improvement Plan (ROWIP). The ROWIP recognises the Council’s duty to have regard to DDA95 (replaced by the Equalities Act 2010) and to consider the least restrictive option.

41 The ROWIP also has as its aims:

- *The promotion and development of the public rights of way network, enabling pedestrians, cyclists and horse riders to avoid heavy or intrusive traffic. (p.46.3)*
- *To provide a more usable public rights of way network, suitable for changing user demands. (p.46.1)*
- *Increase access to the countryside for buggies, older people, people with mobility problems and other impairments. (p.43.1 – 5)*

- *Increase access to the countryside for people who are blind or partially sighted. (p.43.4 and 5)*

- 42 The Council must also have regard to the needs of agriculture, forestry and the conservation of biodiversity.
- 43 The Council is also empowered to make a 'combined order' under s.53(2)A of the Wildlife and Countryside Act 1981. The effect of this means that on the confirmation of the order the definitive map and statement may be changed without the further need to make an order under s.53(3)(a)(i) of the 1981 Act (also known as a 'legal event order' or an 'unadvertised order').

6.0 Comments on the Considerations

- 44 S.119(1) HA80 says that the Council may make an order to divert a path if it is satisfied it is in the landowners interest to do so. The landowner's interest is demonstrated by the making of the application itself (for which the landowner will meet all actual costs incurred) and the clear benefits of privacy and having a working area (the farm yard) free of the general public, horses and dogs. S.119(1) is therefore satisfied.
- 45 S.119(2) HA80 says that the Council shall not alter the termination point to one that is not on a highway or to one that is not substantially as convenient to the public. The proposed new termination point for Pewsey 62 is 150 metres north along the same bridleway (Pewsey 23). This is considered as convenient to the public and S.119(2) is therefore satisfied.
- 46 The Council could therefore proceed to make an order under S.119 to divert the highway. However, as detailed at paras 33 to 35 it is also appropriate to consider S.119(6) at this stage.
- 47 S.119(6) says that the new path must not be substantially less convenient to the public. The new path covers ground that is unsurfaced and will be softer underfoot. It is unlikely to be as slippery as the tarmac driveway is for horses and would not present such a slip hazard in icy conditions. There is no significant change in gradient and provided the junction with path 23 is created to the Council's satisfaction the new path would not be less convenient.
- 48 The Council must also have regard to the effect on the public enjoyment of the path as a whole. Officers have observed that the existing route leads past a range of buildings, some of which are interesting and historic while others are more utilitarian. There is also a risk associated with moving farm vehicles. The new route denies users the chance to pass so close to West Wick House. Some users find this an enjoyable feature of a walk or ride whilst others lack the confidence to use a right of way that passes so close to a dwelling. The proposed new route has very good

views from it, including views over West Wick House, seeing in the wider context of its surroundings. The route has a softer surface making it better for horse riders but less easy to use for cyclists and walkers. However, the path as a whole is of a rural nature and the proposed new route is in keeping with the remainder of the route.

- 49 The new route has a width of 4 metres whereas the remainder of the route has a width of 3 metres. There are no gates associated with the new route. Should the land use change it would be necessary for an application for gates to be erected to be made under s.147 of the Highways Act 1980. If this were to happen Wiltshire Council has a duty to ensure that the least restrictive option is applied.
- 50 The new path is not substantially less convenient and will not have an adverse effect on the enjoyment of the use of the route as a whole. S.119(6) is therefore met.

7.0 Environmental Impact of the Recommendation

- 51 There is no negative environmental impact associated with the recommendation. It is likely that the maintenance of an undisturbed 4 metre headland in the arable fields will have a positive environmental effect allowing greater diversity of flora and fauna.

8.0 Risk Assessment of the Recommendation

- 52 Risks to the Council are covered at 9.0 Legal and Financial Implications. Risks to the public associated with the recommendation are considered to be nil.
- 53 The public is being removed from potential harm arising from farm vehicles using part of Pewsey 62.

9.0 Legal and Financial Implications

- 54 The applicant will pay all actual costs associated with making an order.
- 55 If significant objection is received the Council may abandon the Order at no further cost to either the applicant to the Council.
- 56 If the Council refuses to make the order the applicant may seek judicial review against the Council's decision and may succeed if the Council has been unreasonable. Costs can be high for this (c.£50000).
- 57 If the Council makes the order and objections or representations are made the Council will consider the matter at a meeting of the Area Planning Committee. That Committee may decide to abandon the order or may decide to support its confirmation. If the Council supports the Order it will be forwarded to the Secretary of State to determine and the Council will pay costs relating to this. This may be negligible if the case is determined by written representations (a few hours of officer

time), around £200 to £500 if determined at a local hearing or between £1000 and £2500 if determined at a public inquiry.

10.0 Equality Impact

58 Owing to the removal of members of the public from the driveway serving the property and the farmyard itself, the new path is considered safer to use for all members of the public but especially those with poor hearing (which may include older people as well as those with a registered disability).

11.0 Options to Consider

- 59 i) To refuse the application
- ii) To allow the application and make an order under s.119 HA80 and s.53A(2) WCA81.

12.0 Reasons for Recommendation

60 S.119(1) and (2) are met by the application and an order may be made.

61 S.119(6) is also met if no objections or representations are received and the order may be confirmed by Wiltshire Council if this is the case.

62 There is no cost to the Council associated with paras 60 and 61.

63 The receipt of objections or representations that are not withdrawn will cause Wiltshire Council to reconsider S.119(6) HA80 at a meeting of the Area Planning Committee giving a second chance for the consideration of Section 6.

13.0 Recommendation

64 **That an Order under S.119 of the Highways Act 1980 and S.53A(2) of the Wildlife and Countryside Act 1981 is made in accordance with the application and duly advertised. If no representations or objections are made (or any made are subsequently withdrawn) that Order should be confirmed and the definitive map and statement altered accordingly.**

Sally Madgwick
Rights of Way Officer
02 October 2012

SUMMARY OF OBJECTIONS AND REPRESENTATIONS

APPENDIX D

N.B. The comments in the Objection column are the officer's summary of the original objection

OBJECTIONS (19 duly made plus one late submission)

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No.	Name	Objection	Officer's Comment
1	Mr. and Mrs. K Bryant Milkhouse Water Expressed wish to sustain objection	<ol style="list-style-type: none"> 1. There are other working farmyards with rights of way through them (i.e. Broomsgrove, East Wick, Brimslade and Totteridge) and West Wick has not been a working farmyard for many years. 2. It has passed close to Wick House rear and staff entrance for at least 200 years and is established and well used by horse riders and walkers. 3. The existing path is solid, dry and well surfaced. The diversion leads up a steep sharp incline which is slippery and muddy and will be a hazard. The route has roots and stumps along it which will regrow. 4. The route is around a field edge and is ill defined and rutted. Walkers and riders like the existing route because it is hard surfaced and dry. 5. The route is believed to be ancient and probably part of a drove road. The western end at Oare is called Pound Lane. There is no reason why this ancient thoroughfare should not remain on its present alignment. One of the pleasures of this thoroughfare is to admire the old buildings such as the barn and it is not good that such small delights should be removed from the public for trivial reasons. Lord and Lady Devlin lived here for many years and evidently felt no need to remove the path. 6. There is illegal and misleading signage on the route. 	<ol style="list-style-type: none"> 1. The applicant has concerns for safety in this area and it is not known what his future plans for the farmyard are. The Order may be made if it is in his interest to divert the path and this, along with increased privacy, is given as a reason satisfying this. Examples given are not directly comparable. 2. The right of way leads past doors and windows to the rear of the property. Ordnance Survey maps c. 1870 support that Pewsey 62 was a through route by that time. 3. The diversion would only come into force when Wiltshire Council certified the new route as acceptable. This would involve any slopes being graded, trees and roots being removed and a well drained surface being established. 4. As above, though it is noted that the adjoining land is currently arable and that a wide headland would have to be observed. 5. Without extensive research it is not possible to comment on the antiquity of Pewsey 62 (Pound Lane and Wick Lane). It is not shown on Andrews and Dury's Map of Wiltshire dated 1773 but may not have been if it had only been a bridle road at this time. It is not shown on the Ordnance Survey one inch old series (c.1815) but again may not have been if it was not a road. It is certainly shown on the Ordnance Survey County series maps of the late 19th century and early 20th century where it is recorded as a B.R. (bridle road). The house is Grade 2 listed (English Heritage ID 311692) and dates from the mid 18th century. The garden wall is also listed and is believed to be the one that the existing route of Pewsey 62 passes. 6. This is not a matter for this order.

No.	Name	Objection	Officer's Comment
2	Sylvie Clayden New Mill	<ol style="list-style-type: none"> 1. Walks the route with a dog and sometimes with children and a baby in a pram. 2. The proposed new route would bring horses down a steep bank onto a narrow bridleway on a bend. This path is not wide enough for horses and humans to pass safely normally but this new intersection will make it potentially more hazardous. 3. The route is part of our heritage and should be maintained as such. Local residents love and respect the countryside and people's property and it cannot be imagined that offence is caused. 4. Believes that the new owners are not yet familiar with the local sense of heritage and its importance. The change is unnecessary and potentially dangerous. 	<ol style="list-style-type: none"> 2. The steep bank would need to be graded before certification and acceptance. Wiltshire Council is not aware of any problems between users on adjoining bridleways. 3. The route is of antiquity and the house it passes is clearly of merit (it is listed). Wiltshire Council is not aware of any problems with users of this path.
3	Harriet Allen Broomsgrove Objection Withdrawn	<ol style="list-style-type: none"> 1. Is a concerned neighbour who has enjoyed the local bridleways for many years. 2. Is horrified of the potential change to long standing rights of way. These changes are not beneficial to the ways of the countryside. 	<ol style="list-style-type: none"> 2. The law permits landowners to apply to divert public rights of way subject to a number of legal tests being satisfied.
	Gill Sharpe Milkhouse Water	<ol style="list-style-type: none"> 1. Has a footpath on their property that leads within a few metres of their house. Does not feel any need to divert it. Considers it selfish and unconscionable to want to divert an established right of way. Ancient rights of way need to be preserved and cared for. There are several locally that pass through properties and are part and parcel of living in this community. 2. The bridleway does not impinge on the house and just passes by the tradesmen's entrance and ancillary cottage. This cannot be inconvenient as all people do is pass by. New owners need to accept that they are part of a community that expects their tradition and heritage to be respected and not adjusted to their ends. 3. Rides the bridleway regularly with her daughter and does not consider a muddy unmade track to be acceptable as an alternative. 4. The purchasers of the property knew of the right of way when they bought the house. 	<ol style="list-style-type: none"> 3. Wiltshire Council would not certify and accept a muddy unmade track.
5	Iona Hassan Pewsey Objection withdrawn subject to new route being of good standard	<ol style="list-style-type: none"> 1. The route is well used and loved and forms a direct path from Oare to Wootton Rivers, Brimslade and beyond. 2. As part of the history of the Pewsey Vale and in line with the stated aims of Wiltshire Council regarding access to the countryside the route should be vigorously protected. 	

No.	Name	Objection	Officer's Comment
6	Mrs. E Slayford Pewsey Expressed strong wish to sustain objection	<ol style="list-style-type: none"> 1. Has been riding this very old established right of way for decades. 2. Previous owners never complained or found any inconvenience and it has always been a very safe route for riders being hard and dry. 3. The new route will be the opposite and the eastern exit will be a threat to horse riders, especially her own elderly horse and hence herself. 4. Many other bridleways in the area pass much closer to residences. 	
7	Mr. and Mrs. West New Mill	<ol style="list-style-type: none"> 1. Have been occasional users of the path for about 10 years. 2. Sympathises with the wishes of the landowner but believes that the proposed diversion will create difficulties that will outweigh the benefits to him. 3. The existing route is usable in all weathers, even the section beyond West Wick House. However, the new route is deeply rutted and likely to be prone to overgrowth very quickly. 4. Has concerns that the new route will not be maintained and will become impassable. 5. If year round passage could be guaranteed the objection would be withdrawn. 	<p>3 & 4. The new route would need to be built to an acceptable standard for the Council. It would then be certified and accepted as a route maintainable at public expense and Wiltshire Council would become liable for its ongoing maintenance. Any growth from the sides would be the responsibility of the landowner. The Council's resources do not enable it to guarantee that the growth would be kept back at all times though it does have a statutory duty to keep the route free from obstruction.</p>
	Pewsey Vale Running Club	<ol style="list-style-type: none"> 1. Writing on behalf of the running club which has 50 plus members. It is a route that is used and enjoyed by the club. 2. The farmyard has not been a working farmyard for many years and there are many rights of way locally that do pass through farmyards (Broomsgrove, East Wick, Brimslade and Totteridge). 3. Has concerns relating to the rutted replacement track and obstruction by vegetation and seasonal growth. 4. Pewsey 62 is well used because it is hard surfaced and dry and this is not the case with the proposed diversion. 5. The route is of historical significance and should be retained. 	<p>2. There are a significant number of rights of way through farms in this area (other examples include Manor Farm, Rainsombe and Noye's Farm) but none are directly comparable to West Wick.</p>
9	Fiona Burgess Woodborough	<ol style="list-style-type: none"> 1. Objects to the diversion as it is a functional, useful and long established public right of way. 	

No.	Name	Objection	Officer's Comment
10	A. Crosby-Jones Pewsey	<ol style="list-style-type: none"> 1. Keeps horses at Milkhouse Water and this bridleway is a frequent ride and is very well used by other riders, walkers, runners and cyclists because it is a quiet lane passable in all weathers. 2. Has concerns that the new route will not be usable in all weathers and could lead to problems for inexperienced horses and riders. 3. The Council would become liable for its maintenance and it would not be a good use of public money dealing with complaints about it. 4. This is a friendly open local community where historic rights are numerous through farms and the new owners should accept it is a part of being in a rural Wiltshire community. This right of way has been there for hundreds of years and the previous owners found no need to divert it. 	<ol style="list-style-type: none"> 3. The Council has no record of complaints relating to the existing section through West Wick Farm or evidence of previous applications to divert.
11	Nick Turner Expressed wish to sustain objection	<ol style="list-style-type: none"> 1. It has not been a working farmyard for very many years and locally many working farms do have rights of way leading through them. 2. It doesn't pass the front of West Wick House. 3. It is a solid dry well surfaced route at present whereas the alternative is not. 4. The route has ancient origins and should be preserved. 	
12	John Footman Pewsey Expressed wish to sustain objection	<ol style="list-style-type: none"> 1. This is an ancient right of way that should not be closed. 2. We regularly use the way and are worried that further changes could be brought to this pleasant right of way. 3. The bridleway does not pass particularly close to West Wick as this is approached by a gated entrance and at least 50 yards of private drive. This right of way passes round the back of the property, past garages and disused buildings which could be made more private if the owners wished to by say, planting a simple hedge. 4. The argument that it is close to the house is not sufficient reason as many rights of way or roads pass by most people's houses. 5. Surely it is incumbent on the owners to make changes to increase their privacy without diverting an established right of way that is enjoyed by local residents. 6. We feel that the notices on A4 paper displayed at ends of the path were difficult to understand and decipher. 	<ol style="list-style-type: none"> 6. These notices are statutory notices and the Council may not alter the wording.

No.	Name	Objection	Officer's Comment
13	Jo Angell Milton Lilborne	<ol style="list-style-type: none"> 1. Used to live at West Wick Farmhouse and kept horses here, the previous owner, Lady Devlin, welcomed us to ride through without any issues. 2. Runs a local livery business and many clients also like to ride this route. 3. The route passes the rear of the house and not the front. 4. The new route is prone to water run off and can get wet and slippery. 5. The new route has deep ruts from tractors which are dangerous for horses. 6. The existing route can be used all year round safely and is ideal for young riders who can be easily led from another horse. 7. Considers it one of the safest rides in the area. 8. Many other farms nearby have rights of way through them and welcome riders. 	
14	Mr and Mrs Thompson Oare	<ol style="list-style-type: none"> 1. Has walked and cycled here for 22 years and has not seen agricultural machinery here. 2. Believes that by discouraging locals to walk through there is an increased security risk and they, and other local people, would challenge strangers. 3. Locals were ignored during the consultation phase. 4. The new route is not substantially as convenient to the public. It is steeper and longer and passes Lye House where aggressive dogs live. 5. There is a significant drop from the proposed new route onto the adjoining bridleway. 6. Cyclists would not find the new route a welcome part of their ride as it would be more difficult. 	<ol style="list-style-type: none"> 3. The only way to contact users of the route is to post notices on site and this was done. The effect is witnessed by these objections and representations which show it has been brought to the attention of local users. 5. This gradient would need to be graded to make it less severe, this is recognised in the Council's decision to make the Order.
15	Lorna Pollard Fairfield Stables	<ol style="list-style-type: none"> 1. Rides the route on a daily basis and also with her children and considers it a safe ride. 2. Is a co-owner of a local stable and other people also use the route. 	
16	Karen Roff Wilcot	<ol style="list-style-type: none"> 1. Is a fairly inexperienced rider and has used Pewsey 62 many times. 2. Is concerned that the new route is difficult to use, uneven and appears water logged. 3. The current route is not prone to overgrowth or water problems and is ideal for all levels of riding experience. 	

No.	Name	Objection	Officer's Comment
17	Mrs. Sam Ricks Wootton Rivers Expressed wish to sustain objection	<ol style="list-style-type: none"> 1. Keeps horses locally and enjoys this route. 2. The route passes by the rear of the property. 3. The route is ancient. 4. The new route is uneven and unsafe, narrow and slippery. 5. The adjoining bridleway past Lye House gets really wet from water run off down the hill and is dark and overgrown. 6. The new route has deep ruts from tractors. 7. The current bridleway is on a good hard road surface. This is one of the safest rides in this area. 8. There are other farms and houses close by with bridleways and rights of way through their land and they welcome riders and walkers. 	These points have been addressed in earlier comments to objections.
18	Lucy Turner	<ol style="list-style-type: none"> 1. Objects based on objections in an attached document. The document is an e-mail from Mr. Ken Bryant containing his objection (number 1 above). 2. Regularly uses the route to run or walk as it is a wide track that never gets muddy. 	These points have been addressed in earlier comments to objections.
19	Anthony Wells Totteridge Farm	<ol style="list-style-type: none"> 1. The existing path has been used for decades (or longer) with no apparent cause for complaint. 2. It provides the most direct and natural route. 3. The route gives users an interesting and historical view of a traditional stable yard and thatched barn providing a highlight on the bridleway. 4. The existing route is well defined and the proposed replacement is not and would become muddy and potentially hazardous. 5. To move the path would set a bad precedent – there are several nearby places where paths pass through working farms and to relocate such paths would deprive the user of a fascinating insight into the countryside. Speaks with some knowledge of this as walkers pass just five yards from the front of his house at Totteridge Farm. There have been very few, if any problems as a result of this and there is minimal invasion of our privacy. 6. If West Wick were a working farm there may be grounds for concern for the health and safety of walkers but if even then it would be incumbent on the owners to ensure safe passage for the public. 7. The path passes to the rear of the house and provides very little intrusion into the privacy of West Wick House. The front of the house is not visible from close proximity. 	These points have been addressed in earlier comments to objections.

No.	Name	Objection	Officer's Comment
Late	Ffinlo Costain	<ol style="list-style-type: none"> 1. Footpaths are part of our heritage and history each path describing a route that is often centuries old from one specific place to another. By diverting this route its essential purpose and heritage would be undermined. As such, a major aspect of the character of this path would be lost which would impair the use and enjoyment of those who use it now and who would use it in the future. 2. It seems clear that the proposed diversion is far less convenient than the current route. 3. Footpaths add character to the surrounding countryside and also to individual properties. I've lived in homes which have footpaths running through and alongside them and it's always been a pleasure to greet people who share my enjoyment of the countryside. 	<ol style="list-style-type: none"> 2. The new route would need to be constructed to an acceptable standard whereby it was wide, dry and with limited gradients.

REPRESENTATIONS

No.	Name	Objection	Officer's Comment
R1	Mr. and Mrs. Good Pewsey	<ol style="list-style-type: none"> 1. Has had a path moved at their farm and thinks that perhaps the owners of West Wick may not want young children playing close to strangers walking past as this was the reason for their diversion. 2. Has walked, ridden and cycled Pewsey 62 for the past 15 years because it is good hard standing ground. 3. Suggests a compromise. Perhaps the path could be moved on the corner by the large thatched barn and head north and round the back of the farm buildings to join up on the west side. 	<ol style="list-style-type: none"> 3. Officers acted on the route applied for. However, in the event that this application fails it is possible for the owners to apply for another diversion over a different route.
R2	F. Haskell Thomas	<ol style="list-style-type: none"> 1. Doesn't think the proposed route is unreasonable but has concerns that the new route will become a deep shoe and tendon pulling bog precluding its use for many months of the year. 2. The existing route is not ideal as a combination of concrete and tarmac but it can be used all year. 3. Other paths close by have become difficult or impossible to use (bridle path between Pains Bridge and Knowle, Pewsey 33, Wilcot 8 and path over Bacon Copse Field to Draycot). And it is therefore essential that this one is fit for purpose. 	

No.	Name	Objection	Officer's Comment
R3	Jenny Lund Ramblers	<ol style="list-style-type: none"> 1. This is not an area known well to her and she can see that local people who know the area have objected. 2. Whilst her original response recognised that landowners were perfectly entitled to apply to divert routes she does not want her response to override the opinions of local people who know the situation better than her. She would defer to their opinion. 	<ol style="list-style-type: none"> 2. The Ramblers were consulted by the applicant and Wiltshire Council at the initial consultation stage as is usual practice.

Compiled by Sally Madgwick from original responses 31 January 2013

Updated by Sally Madgwick 21 May 2013

Original responses available for public viewing at Newbury House, Aintree Avenue, White Horse Business Park, Trowbridge, BA14 0XB

Circulation for seeking withdrawal of objections

**West Wick House
Oare, Pewsey, Wilts
SN9 5JZ**

Mr Andrew Brown
Marriotts Chartered Surveyors
9 Market Place
Faringdon
Oxon
SN7 7HL

23 April, 2013

Dear Andrew

Re: Pewsey 62 West Wick

Thank you for the plan, which sets out very well my intentions for the proposed improvements to the existing bridleway. I want to make sure that it is as pleasant for the users as possible, should we be allowed to divert the route onto it.

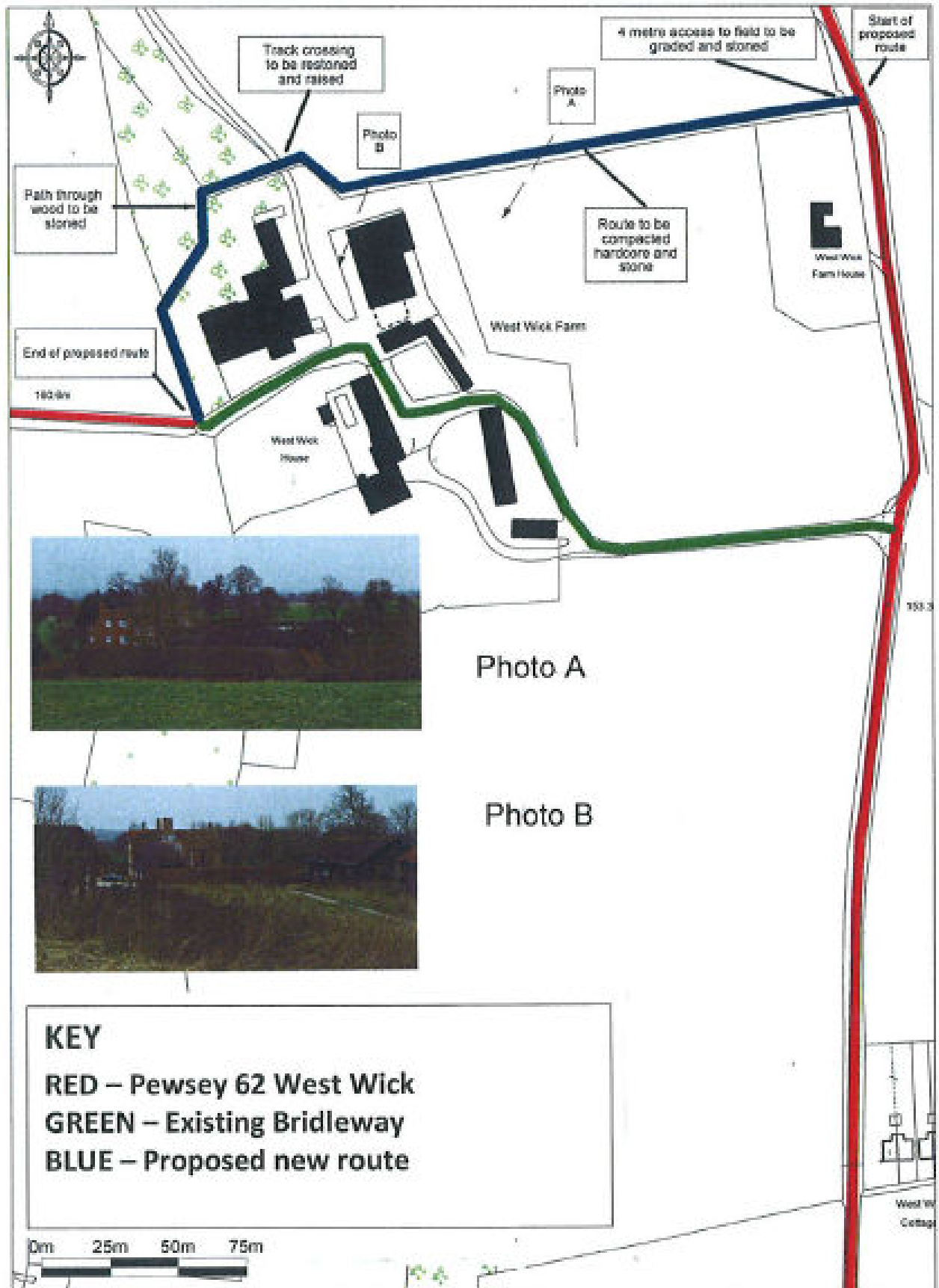
The part of the red route that passes West Wick Farm House is already quite a good surface and as it turns left onto the proposed blue route, I see you have indicated some grading to allow a smooth transition onto that section. I know that you have indicated this on the plan, but I want to ensure too that all interested parties are made fully aware that the surface of the proposed route will be fully prepared and made up, being compacted and stoned along its entire length, so it will be dry and firm - an excellent riding, cycling, running and walking surface - and will be well maintained as such.

The views from the blue route are excellent, giving not only far reaching views unavailable on the existing route, but also a much better view and overview of the historic context of the house and grounds than the existing green route (as the two photographs A and B show) and I would like to create a plaque along the route, with some history on the house and grounds, together with some detail on the wildlife that might be visible along the way. I want to encourage users to enjoy the route as much as possible.

Yours sincerely

Gerard Griffin

See plan below:



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REPORT TO THE EASTERN AREA PLANNING COMMITTEE

Report No. 1

Date of Meeting	1 st August 2013
Application Number	E/2012/1444/FUL
Site Address	Land at Manor Farm, Allington, Wiltshire
Proposal	Erection of dairy unit
Applicant	Mr Richard Oram
Town/Parish Council	ALL CANNINGS
Grid Ref	406839 162844
Type of application	Full planning
Case Officer	April Waterman

Reason for the application being considered by committee

Prior to the May 2013 elections the application was called to Committee by Cllr L Grundy OBE. Cllr P Whitehead, new member for the division, has confirmed the call-in.

1. Purpose of the report

To consider the recommendation to approve an application for full planning permission to erect a new dairy unit, together with hardstanding, access alterations and landscaping. A new single building is proposed to accommodate the whole of the farm's milking herd, a parlour, a dairy and a waste store. The building would contain cubicles for 240 cows, four robotic milking units, a dairy and underground storage for the waste produced by the dairy cows.

2. Report summary

The issue to determine is whether the proposed new building is acceptable in this location, which is in a prominent position within the North Wessex Downs Area of Outstanding Natural Beauty, and adjoins the small settlement of Allington. The impact of the development needs to be assessed in terms of visual interruption of the landscape, traffic flow and volume, disturbance to residential amenity and effect on heritage and biodiversity resources. The judgement to be made is whether there would be harm caused to the environment, and to the enjoyment of it by residents and the public, by the development, and if so whether there is justification, in terms of benefit to the local economy, to offset such harm, and to allow the development to proceed.

3. Site description and background

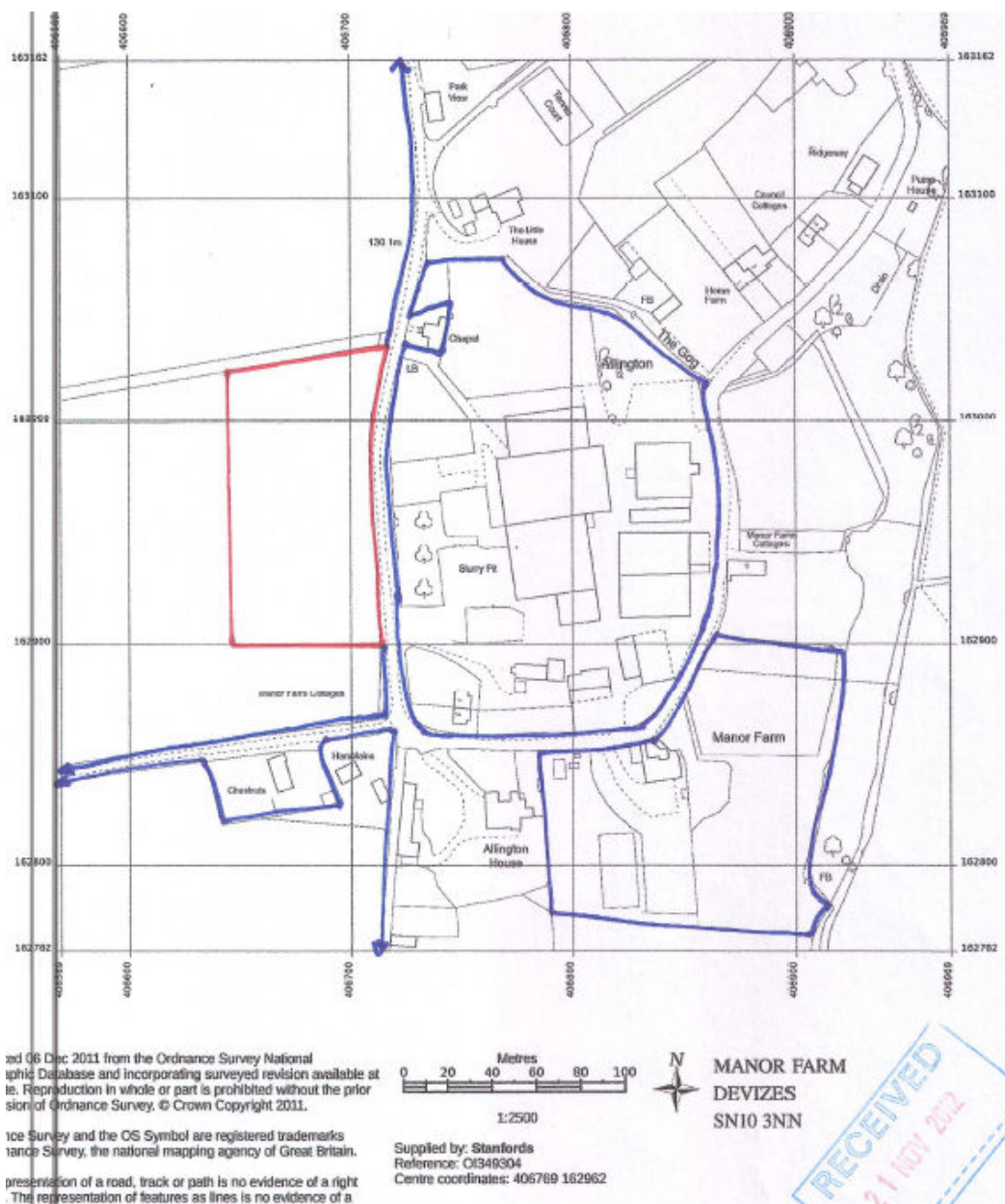
The application site comprises 0.8 hectares of gently sloping grassland to the west of, and directly across the lane from the existing agricultural complex of Manor Farm, Allington. This single width lane forms a loop serving the farm and a number of dwellings comprising this small hamlet, leaving and returning to the south side of the C8 Devizes – Pewsey Road. The site rises gradually (from the west side of the western arm of the loop in the lane)

gaining some 2.5 metres in height from its road surface level to the western edge of the site (a distance of about 70 metres).

The site lies within the North Wessex Downs Area of Outstanding Natural Beauty and in the Kennet Landscape Conservation Strategy 2005 is covered by the "Vale of Pewsey" landscape character area.

Manor Farm is a dairy and arable enterprise, with a milking herd of 240 cows, all at Allington (of which about 200 are milked) together with 160 young stock and replacements, some kept at Allington. All stock are housed, not grazed. The applicant also owns land and buildings at South Farm, West Overton.

Properties close to the site that are not in the ownership of the applicant include the Bethel Baptist Chapel (a Grade II Listed Building) and a number of dwellings.



4. Planning history

E/09/0644/FUL - Conversion of barn to dwelling for agricultural worker: Refused July 2009

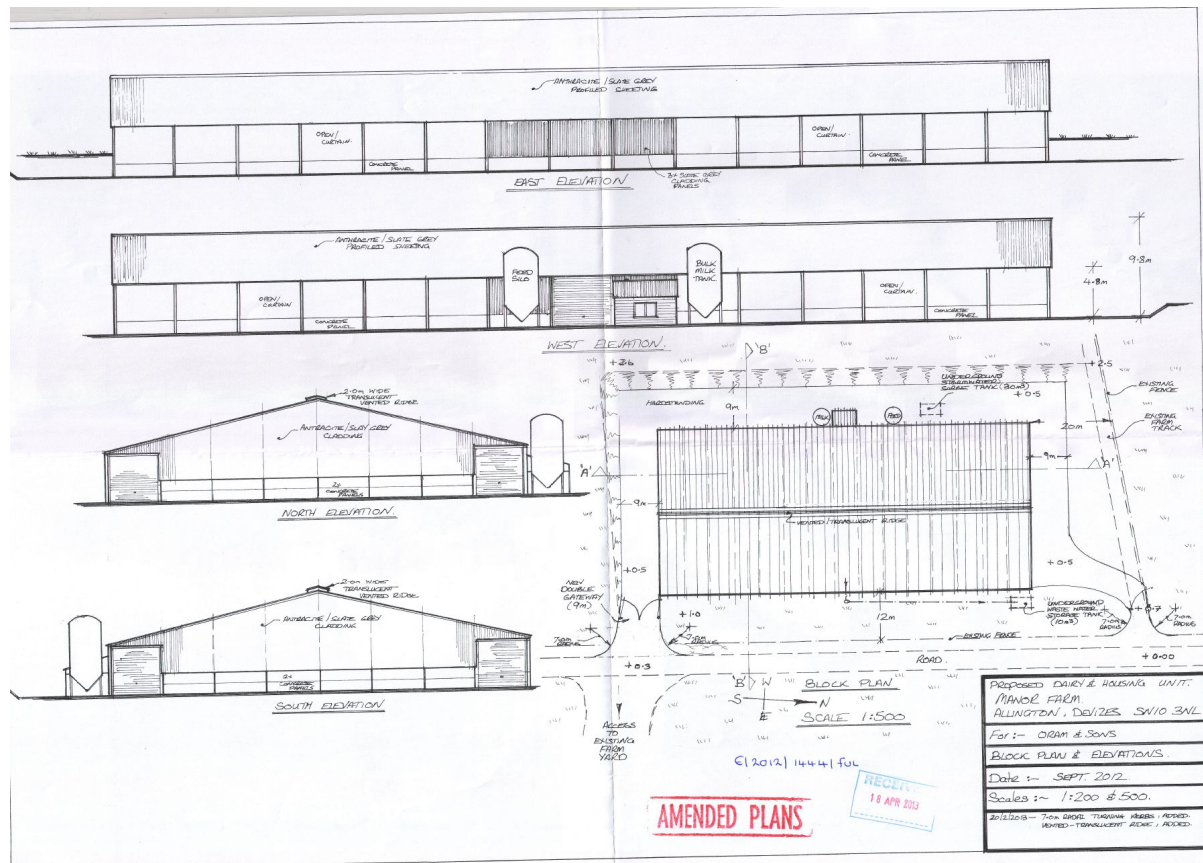
E/09/0600/FUL - Straw barn extension to existing dairy buildings: Approved June 2009

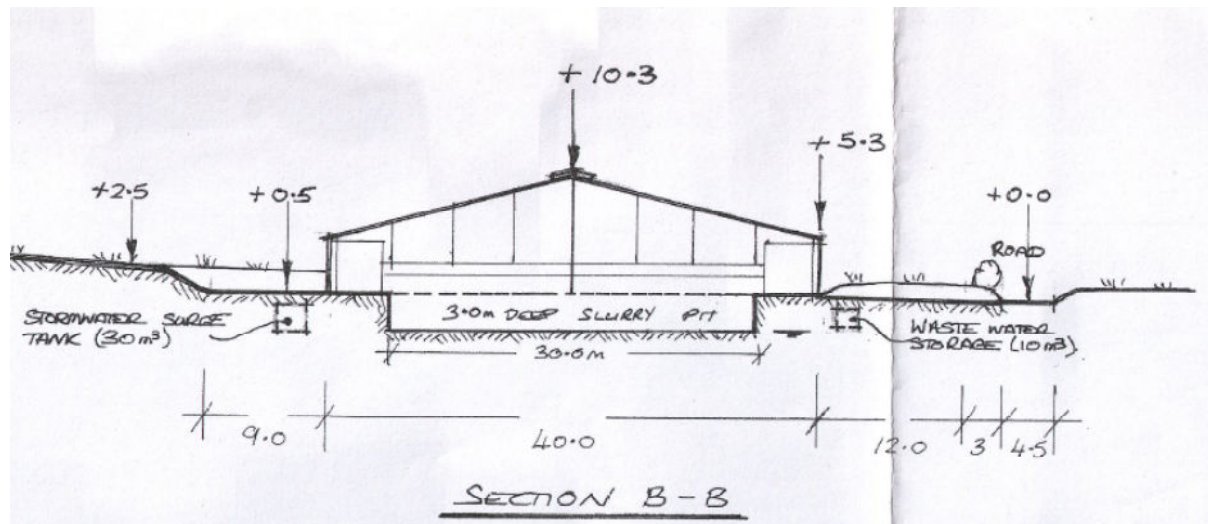
K/58957 - Conversion of barn to dwelling for agricultural worker: Withdrawn summer 2008

K/45643 - Conversion of barn to dwelling: Approved July 2003

5. The proposal

Planning permission is sought for the erection of a 40m x 90m single span building to house an expanded milking herd of 300 cows, robotic milking machines, feed hopper, bulk milk store and underground slurry pit. The proposal includes a hardstanding area around the building, and mitigatory landscape planting. The site would be excavated to produce a level area, with spoil being used to create bunds for tree planting along the lane edge of the site.





The building would be constructed with dark-coloured sheet material roofing, with a canopy ventilation strip along the 9.8 m high ridge length. Concrete sections are proposed for the lower parts of the east and west side walls, with an open ventilation gap beneath the 4.8 m high eaves across which curtains would be pulled. Central sections of the east and west walls would have solid cladding, and the entirety of north and south-facing gable end walls would be solid sheet cladding. Taking the existing road surface level as 0.0, the proposed building would sit on a base +0.5 m, bringing its ridge and eaves heights to 10.3 m and 5.3 m above the level of the loop road respectively.

Waste from the cows would be stored in 3m deep slurry tanks beneath the building, with direct collection through the slatted floor of the dairy.

The planting of tree standards, woodland areas, shrubs, hedging and grass land is proposed, and set out in the submitted landscape proposals and mitigation strategy.

6. Planning policy and guidance

National Planning Policy Framework 2012

Kennet Local Plan 2011

Policy PD1: Development and design

Policy NR6: Sustainability and protection of the countryside

Policy NR7: Protection of the landscape

Wiltshire Core Strategy Pre-submission Document

Core Policy 51 Landscape (to be read together with proposed change referenced 80)

North Wessex Downs AONB Management Plan 2009 - 2014

7. Consultations

All Cannings Parish Council:

No firm decision could be reached.

If the application is passed we would like to see the following:

1. That mature tree screening is in place at all times and in good condition.
2. That the provisions to prevent flooding from the increased concrete apron and roofing are more than adequate.
3. That road improvements be made on the crossing points across the loop road from the existing farm yard to the new development site to prevent erosion.

All Cannings Parish Council (amended plans) :
Comments as above re-iterated.

Bishops Cannings Parish Council:
No objections.

County Landscape Architect

The application site lies within the North Wessex Downs AONB, an important national landscape designation. Development proposals in this context are required to be sensitive to the receiving landscape character, and designed to a high standard. If you have not already done so, I would recommend that you consult the North Wessex Downs AONB Planning advisor, Andrew Lord. The AONB's Management Plan should also be referred to for appropriate guidance.

There is little doubt in my mind that the erection of this large building will be visible within the landscape and is likely to result in various degrees of negative local landscape and visual effect.

Generally, I concur with the findings in the assessment of effects contained within the accompanying Landscape and Visual Impact Assessment (LVIA). The greatest magnitude of change will be experienced from close viewpoints from the adjoining and approaching lane and from the nearby residential properties located to the north and south of the site culminating in significant negative visual impact. The planting mitigation proposed is necessary, and should be conditioned.

The Devizes to Pewsey Road is an important local road. The stretch of this road sharing inter-visibility with the site is devoid of boundary hedges or hedgerow trees. From this receptor the new building and the ridgeline of the proposed building is likely to register against the skyline, from lower vantage points along this road. A single line of Ash trees is identified as filtering the view of the proposed building from this receptor, however these trees are also identified in the accompanying LVIA as declining in condition. I would recommend additional strengthening and ongoing positive management of this tree line vegetation.

Viewed from elevated and more distant view points within the AONB, the proposed building will be viewed in the context of the existing Manor Farm complex which includes other large modern farm buildings.

The materials and colour of the proposed building including roofing will be important to get right. Bright light colours should be avoided in preference for darker greens and greys. The use of external lighting should be minimal, where essential, the use of directional down lighters should be employed to avoid unnecessary light pollution and visual impacts to the Darker AONB skies. The submitted planning information includes references to roofing materials and lighting. These elements should be controlled by suitably worded planning conditions.

The submitted landscape assessment has recognised that development should mitigate against harmful effects to landscape & important views and visual receptors through use of additional tree and woodland strip planting in order to reduce the negative landscape & visual effects over the medium and longer term.

The planned tree planting (as long as it successfully establishes) should help to filter and obscure views to the building and reduce skyline impacts. However the screening and filtering functions of the proposed new planting are likely to take many years to reach maturity at this relatively exposed site. Suitably worded planning conditions should be used

to ensure that planting proposed as mitigation or enhancement is fully implemented and suitably maintained, including a requirement to replace any failed planting.

I note that the eastern side of the proposed site has an overhead electricity line running over and parallel with the planned hedge and hedgerow tree planting. While hedge planting is likely to be achievable, it may be necessary to push the planned tree planting further into the site, so that canopies can be allowed to grow, without risk of being reduced to pollards by the relevant electricity company as they mature and start to provide a screening function to development.

Development proposed within the AONB should seek to enhance the AONB, I would suggest that apart from the mitigation currently proposed to lessen the visual impact from the new building, a development of this size and nature should also seek to deliver local landscape and biodiversity enhancement within the land in the control of the applicant. The local 'Vale of Pewsey Landscape Character Area' enhancement priorities, are included in Appendix 1 within the LVIA as 'Enhancement priorities', which might typically include additional boundary improvements or land management actions, local biodiversity habitat enhancement.

For example, the line of ash trees to the north of the site are identified within the LVIA report as an important landscape feature, and recognised as providing a useful visual filtering function to the proposed dairy building from the Devizes to Pewsey Road, however, these trees are also described as 'declining' in condition. I would like to see this landscape element, with others such as hedges and hedgerow trees, supplemented and sustainably managed into the future, so that the condition of the local landscape character is being repaired and managed through associated sustainable development wherever possible.

In light of the current national 'Ash Dieback' situation, I would recommend against the specification of Ash trees within this development. The landscape consultant should be requested to substitute the proposed Ash species content for another species typical of the local area.

Landscape Architect (amended plans) :

I note that there are no specific revisions to landscape information, supporting documents or plans to comment on further within the additionally submitted information.

However I would like to take this opportunity to draw your attention to the final appearance of the proposed feed silo and milk bulk tank, as shown on the Block Plan & elevations drawing. These external storage structures are located against the west facing elevation of the building, but also visible from north and south viewpoints. Due to their size and scale it will be important in my opinion that they do not manifest as white or glinting stainless steel focal features silhouetted against the darker / muted building backdrop. It would be beneficial to better understand the colour palette options and finishes available, and condition the final agreement of a suitable colour/finish. I would have a strong preference for a single neutral/muted colour that would not significantly contrast against the building materials proposed for use in the main building.

I note the revision includes the introduction of 7.0 M radius turning kerbs at each of the vehicular entrances. If 7.0m turning radii are required for highway reasons? I question why kerbs up stands are necessary in this rural context, especially off such a minor road. In my view this introduces unnecessary urbanisation of a rural lane. The use of kerb up stands should be resisted, if a hard edge is required as an edge restraint to contain road construction surfacing, crossing the verge, it should be laid flush with the adjacent road surfaces (with no up stands).

Highways:

I refer to the above planning application. I recommend that this application be refused on highway grounds for the reason given below:-

“The application for a new dairy unit does not include sufficient information to enable the transport aspects of the proposal to be properly assessed. The development could lead to an increase in the use of the western junction of the Allington loop road with the C8 class III Devizes to Pewsey road which has extremely sub-standard visibility to the east, in which case the development would increase dangerous conditions for road users.”

With reference to the above recommendation, I would comment that 11.18 of the D & A statement states that “there will be no material change to the vehicle movement associated with the existing dairy use”. That may be correct, but the submitted information does not adequately discuss the following:-

The extremely sub-standard visibility to the east from the western junction of the Allington loop road with the C8 where a number of road traffic accidents have occurred. Land ownership in the vicinity of this junction.

The increase in non dairy vehicle movements which may arise from the development given the proposed increase in overall farm floor area.

The number and type of expected daily vehicle movements across the loop road between the old and new farm buildings.

The number and type of vehicle movements arising from the expansion into a beef enterprise (2.10 of the D. & A. Statement).

The number and type of vehicle movements arising from the storage of grain in the existing buildings but which is stated as currently taking place elsewhere (2.10 of the D. & A. Statement).

The number of vehicle movements distributing slurry from the proposed unit (4366 cubic metres (2.5 of the D. & A. Statement,)) and their routeing compared with the current situation.

A detailed Transport Statement should be submitted considering all of the above points.

In the event that this application proceeds towards approval I am likely to require some improvements to the entrance radii at the two access points from the unit to the unclassified road.

Highways (amended plans):

I refer to the above planning application, and to the amended Transport Statement received on 24th May 2013. The Statement provides information on the points of concern raised in my previous comments dated 16th January 2013. Given the conclusions of the Statement that the proposed development would not result in any increase in traffic movements associated with the farm, and that there would be a reduction in movements, I am unable to press for an improvement to visibility at the western junction of the Allington loop road.

I recommend that any grant of permission should be conditioned to cover the following points:-

- Notwithstanding the details hereby approved the southern access to the new dairy unit shall be provided with entrance radii to either side of 5 metres.

- The surfacing of the first 7 metres of each access to the new dairy unit in a well-bound consolidated material (not loose stone or gravel).
- The setting back of the gates to each access to the new dairy unit to a position at least 7 metres from the carriageway edge, with the gates being made to open inwards only.
- Measures to prevent the discharge of surface water from the two access points out onto the public highway.

Environmental Health Officer:

Noise - I have met with the applicant and have visited a similar, although smaller dairy. The aim of this visit was to witness the sound levels that are likely to be produced by the proposed milking robots. The manufacturers of the milking robots have provided some noise data but for reasons previously discussed we do not feel that the information is reliable.

During our visit it came to light that there are some inaccuracies in the 'Proposed floor plan' that has been submitted. The plan shows a plant room in the middle, we have been advised by the applicant that this will not be a plant room but a holding pen. In regards to noise sources it is proposed that there will be 2 x control units and 4 x milking robots. We were advised that the control units will be fully enclosed in 3 1/2 inch thick concrete walls and ceilings. The robots will be enclosed on 3 sides and a ceiling by 3 1/2 inch thick concrete walls. These structures have not been shown on the plans so far but would affect the noise escaping from the development so should be included in the plans.

The visit was useful to give us an idea of the sound levels produced by the robots. Unfortunately, due to the extremely low background levels in the area of the proposal, particularly at night, we require an acoustic survey to be able to make a decision as to whether the sound levels will have an adverse effect on the existing residential properties. The acoustic survey should be carried out in line with BS4142. It is recommended that the target for the report is that the 'rating' level should not be above background. The maximum noise level at night should be below 45dB inside the nearest residential properties.

Due to the unreliability of the noise data that has been provided by the manufacturer the noise consultant may wish to visit a farm where a milking robot is already working. The noise from the existing milking robot can be measured at night when background noise is very low. These measurements can then be used to calculate the likely noise from the proposed 4 milking robots and 2 control units in the proposal.

Unfortunately, without this acoustic report we have to recommend refusal of this application.

Slurry Lagoons - The documents that have been submitted provide limited information on the 'sealed slurry tanks' that will be below the proposed barn. We have visited a similar installation with the applicant to gain a better understanding for the proposal.

While there was not a significant smell emanating from the tank at the farm that we visited, the tank held less than half the volume of the tanks that are proposed to be installed and it included an aerator. Our understanding is that the proposed tanks will not include aerators. The tank that we visited was over 100m from the nearest residential property where as the proposed tanks will be around 50m.

I would like to try to give some perspective on this matter. There is Scottish Guidance that states new slurry storage should not be within 400m of a residential property. The attached UK guidance is for permitted intensive pig and poultry farms, which I accept are different to

the proposal. The guidance sets out that if there is a residential property within 400m of a new slurry store an Odour Management Plan must be submitted with the permit application. Section 2.6.2 gives good information on various methods of managing odour from slurry stores.

The floor of the barn will be slated to allow slurry to drop through into the tanks. The slats will allow any odour from the tanks out into the environment. The footprint of the proposed slurry tanks and therefore the area where odour can escape from is very large. They are also in very close proximity to the nearest residential properties.

Concerns regarding odour are twofold. Due to the farm being in a Nitrate Vulnerable Zone (NVZ) the slurry will be stored for months at a time, at the end of the closed period there will be a large amount of slurry in the tanks. Without some sort of aeration the slurry at the bottom will be stagnant and without oxygen, it will therefore digest anaerobically. Anaerobic conditions can lead to high concentrations of odorous substances within slurry which can be released through 'bubbling off' or at spreading. The slurry at the top will have oxygen so will digest aerobically. Over most of the surface there will be no chance for a crust to form, due to the constant addition of more slurry. A crust can reduce the emissions of odour. Specialist advice may be required to assess the suitability of the proposed tanks regarding emissions of odour.

The second concern is potential for excessive odour when the slurry is spread. Storage must facilitate digestion that will minimise odours at spreading.

I accept that the nearby residential properties are already in close proximity to the working farm. However, the applicant needs to provide evidence to show how the design and management of the new tanks will facilitate effective digestion of slurry. Consideration has to be given to the close proximity of residential properties and the huge footprint of the tanks. Specialist advice may be required to provide this evidence. Odour must be minimised during storage and at spreading and so that it does not cause a statutory odour nuisance.

Environmental Health Officer (amended plans):

Further to our previous email correspondence I am writing to confirm the Environmental Control and Protection team's final comments regarding noise and slurry odour management for planning application E/2012/1444/FUL.

We had some technical queries regarding the noise report; these have now been answered directly by the acoustic consultant.

Noise - The submitted acoustic assessment shows that ambient noise levels in the area at night will be raised. At night time some residents may notice this increase. However the resulting sound levels will not be over the levels recommended in guidance such as BS8233 and The World Health Organisation's Guidelines for Community Noise. The predicted sound levels are not at a level where we can recommend refusal of this application.

Should complaints be received about noise from the unit the applicant has outlined measures that may be taken to further attenuate sound escaping from the building.

I recommend that there is a condition attached to any planning permission granted that requires the unit is constructed and managed in accordance with the submitted plans, reports and documents.

I also recommend that in accordance with section 5.15 of the noise assessment a condition to the following effect is attached to any planning permission granted:

“Air compression equipment and associated enclosure to be installed on the western façade of the unit must be designed and constructed so that the sound level does not exceed 65dB(A) 1 metre from the housing.”

Odour Management – As previously advised this department recommends that there is a condition included on any planning permission granted stating that the building, slurry tank construction and slurry management must be in accordance with the documents submitted.

County Archaeologist:

The site of the proposed dairy unit is in an area of potential for the presence of archaeological remains. Allington is referred to as Adelingtone in the Domesday Book of 1086, earthworks survive within the village believed to be associated with medieval settlement and artefacts recovered within the vicinity suggest settlement may date back to Saxon times.

My advice, in line with the National Planning Policy Framework (2012) is that an archaeological condition is attached to any grant of consent to allow for archaeological mitigation to be undertaken. You may like to use the following condition wording:

No development shall commence within the area indicated 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.

Further Recommendations: The work should be conducted by a professional archaeological contractor and there will be a financial implication for the applicant.

County Archaeologist (amended plans):

No further comments to add.

County Ecologist:

I have reviewed the relevant documentation, comprising the Ecological Appraisal report by Malford Environmental consulting, dated 16th October 2012, together with the Design & Access Statement and the Landscape Proposals & Management Strategy. I have also reviewed the application against available GIS information on statutory and non-statutory designated sites and protected species.

I agree with the conclusions of the ecological appraisal which found that the site is of low ecological value and therefore no protected or notable species or habitats are likely to be adversely impacted by the development. In addition, there will be no risk of indirect impacts to nearby sites in the wider landscape area since the development, once operational, will have to comply with Environment Agency requirements in respect of slurry storage and waste water treatment.

The ecological appraisal report also gives recommendations for habitat enhancements that will be appropriate to the site and surrounding features, which when implemented will increase the biodiversity interest within the site and immediately surrounding area. I note that these recommendations have been incorporated into the Landscape Proposals and Management Strategy.

I am satisfied that the proposed development will have no adverse effect on ecology at the site and that the enhancement proposals will bring positive benefits for biodiversity. I do not consider it necessary to add any conditions in relation to ecology since the site is of low conservation value and no protected species are present. In addition, the management plan, if agreed by the Landscape Officer, will provide enhancements for biodiversity that are in line with the requirements of the National Planning Policy Framework (NPPF).

County Ecologist (amended plans)

My previous comments remain valid.

North Wessex Downs AONB Advisor:

The North Wessex Downs AONB Unit although fully supportive of the needs for the new farm building remains unconvinced that it could not be accommodated within the existing farm yard area. Although this is a farmed landscape where farm buildings are a feature of the landscape, every opportunity should be considered to avoid substantial new farm buildings in exposed green field site locations. A rationalisation and redevelopment of the existing farm yard site does appear possible in this case which could deliver the necessary building without the level of landscape harm

North Wessex Downs AONB Advisor (amended plans):

The AONB Unit maintain their position that, although fully supportive of the needs for the new farm building, the AONB Unit considers the only way this substantial building could be accommodated whilst meeting the aims of “conservation” of the natural beauty of the surrounding landscape (as required by the CRoW Act), would be to site it within the existing farm yard area.

The Council’s own Landscape Officer does indicate concerns over the level of localised harm and negative impact that this development would bring and the fact that the proposed landscaping may not be sufficient and may take many years before the level of harm from this development is reduced. Questions have also been raised by the Council’s Landscape Officer (beyond that which could be achieved through planning conditions) over the limited bio-diversity gain and condition of existing landscaping being sufficient to assist in screening this development. It is not apparent that these questions have been addressed to also ensure that this scheme in some way produces some form of “enhancement”, which although limited may at least help screen the development yet further and improve bio-diversity than currently shown in the application.

If this application is to proceed to the Planning Committee the North Wessex Downs AONB Unit requests that members undertake a site visit to fully consider this proposal before forming a decision.

Environment Agency:

No objections, subject to the applicant’s observance of a number of matters outlined in suggested informatives.

Environment Agency (amended plans):

No further comments.

Agricultural Consultant:

The following comprises extracts from the agricultural assessment report commissioned by the Council, hence the incomplete section numbering sequence.

Area and tenure

2.2 The applicants’ freehold ownership extends to approximately 648 ha (1,600 acres),

comprising Manor Farm, Allington and South Farm, West Overton. In addition to the freehold land the applicants run an extensive Share Farming operation.

Existing farm practice

3.1 The farm is run as a substantial dairy and arable unit. The dairy herd comprises some 250 dairy cows, with some 160 other cattle (herd replacements and youngstock). Allowing for “dry cows” (at the end of their lactation) some 200 head are milked at any time. The dairy herd is based wholly at Manor Farm; youngstock and followers are split between Allington and West Overton.

3.2 The dairy cows are “zero grazed” which means that they are permanently housed in the buildings at Manor Farm, without access to grazing land. The cows are loose housed on straw from the arable enterprise. Milk is produced evenly across the year, through a year round calving pattern. All milk is sold wholesale under a bulk contract.

3.3 The arable enterprise covers some 728 ha (1,800 acres), which includes the share farmed area. All cultivations and harvesting are undertaken by employed staff. The farm buildings at Allington have capacity for approximately 2,000 tonnes of cereal, with the balance stored at Wiltshire Grain or sold at harvest.

Proposed farm practice

3.4 The applicants propose a significant change to the dairy enterprise. As detailed below, the dairy complex will be re-located to a new site, a short distance from the current complex of buildings. As part of the re-location the dairy herd will be expanded to 300 head, with some 240 cows in milk at any time. The applicants plan to introduce a bull beef enterprise, to utilise part of the accommodation freed up by the relocation of the dairy unit.

Comments

3.5 The farm is a well established substantial business.

Buildings

3.6 The buildings at Manor Farm comprise a range of livestock and arable buildings. The dairy cows utilise three covered yards, two of which lie either side of the milking parlour. The third covered yard lies almost opposite the parlour and is used to accommodate “dry” cows. The milking parlour is a 20 stall, 20 cluster herringbone unit, with a low internal eaves height.

3.7 There are two grain storage sheds, both of which have ventilated floors, to enable drying. The only other modern structures at the complex are the two silage clamps, along with a five bay shed used as a farm workshop and an adjoining four bay Dutch barn, used to store “straight” feeds to be incorporated in the ration for the livestock.

3.8 The farm waste store adjoins the buildings and has capacity to store three months of slurry and dirty water.

Dwellings owned by the applicants

4.1 I understand that there are three dwellings associated with Manor Farm, Allington, all of which are in the day to day control of the business. The dwellings are occupied by members of the applicant’s family, all of whom work full time on the farm.

Existing labour requirements

5.1 There are a total of six full time labour units on the farm, five of whom are in the applicant’s family, with one full time employee.

Anticipated labour requirements

5.2 No changes are proposed.

Requirement for the proposed building

6.1 The proposal is to provide a new single building that will accommodate the whole milking herd, parlour, dairy and waste store. The building will contain cubicles for 240 cows, four robotic milking units, a dairy and underground storage for the waste produced by the dairy cows.

6.2 The overall dimensions of the proposed building are 90m x 40m, with an eaves height of 4.8m. Internally the building is shown with six banks of 40 cubicles, divided by concreted passages. The central area of the building has the four robotic milking units, together with isolation pens for illness or AI.

6.3 Externally, the gable ends of the building are shown enclosed, with profile cladding to the upper elevations and concrete panels to the lower elevations. The side elevations are shown with vertically movable curtains to the upper elevation and concrete panels to the lower elevation. The roof is shown in profile sheet, with a fully ventilated ridge across the entire length of the building. I understand that the building will be naturally ventilated; the moveable curtains will be raised or lowered according to the ambient temperature in order to maintain an optimal temperature and humidity in the building. The combination of side curtains and the ventilated ridge will allow ventilation through the “stack” effect.

6.4 The applicants advise that, in their opinion, the dairy infrastructure at the unit is inadequate and presents operational difficulties. The applicants’ intention is to keep Manor Farm as a dairy unit for the benefit of the next generation in the family and in their view it is essential that a comprehensive solution should be provided to enable the continuity of the dairy enterprise for at least the next 25 years. In the applicants’ view the proposal meets that objective.

6.5 The applicants have identified three key factors that hamper the operation of the existing dairy complex:

- Reliance on loose housing means that there is an endemic problem with mastitis in the herd. Mastitis means that the cow requires medical treatment and cannot be milked, thus compromising both her health and productivity from the unit.
- The current milking parlour is cramped and inefficient. The parlour offers no natural light. The herd takes some three hours to be milked. The current regime of three times daily milking means that the parlour has to be staffed for some nine hours each day of the year.
- In common with most of Wiltshire, the farm is now wholly within the designated Nitrate Vulnerable Zone (NVZ). The NVZ means that the ability to spread nitrate (from animal waste) is controlled by statute. The farm’s facility to store animal waste requires significant expansion in order to achieve the anticipated increase to five months capacity, as part of the anticipated changes to the legislation for NVZ.

6.6 In view of the combined problems of the existing infrastructure and operation the applicants have determined that the optimum solution is to construct the new dairy complex. In their view the new building will provide a comprehensive solution to the existing problems and will ensure the future of the dairy enterprise at Manor Farm for the next 25 years.

6.7 In the balance of this section of the report I will comment on the suitability of the proposed building for its intended purpose. You have been clear that you require my comment on the issues associated with the building including the proposed location, alternative locations, financial implications and the re-use of the vacated buildings. I comment on those issues at section 7 of this paper.

6.8 The proposed building has a number of functions to fulfil, comprising:

- Appropriate accommodation for 240 dairy cows
- Sufficient storage for the waste from the cows
- Adequate milking facilities
- Meeting the welfare requirements of the dairy herd.

6.9 The proposed unit will operate fully automated milking for the herd. Instead of structured twice or three times daily milking the cows have “ad lib” access to the milking units 24 hours a day. The cows are free to circulate, feed, drink or lay as they require. The configuration of the cubicles means that the animals dung in the passageway between the laying areas; those passages have slats and the dung falls between the slats to underground storage. The slats are scraped by automated scrapers which means that dung in the circulation passages is kept to a minimum.

6.10 It is my opinion that the unit has been correctly sized in terms of the cow lying and circulation area. The underground store for slurry has been correctly sized for five months’ storage from 240 dairy cows. The nature of the storage means that the slurry will break down through anaerobic (without air) digestion. This means that the stored waste will not produce significant odour during its storage. Odour will be produced when the waste is removed and spread on the land, as aerobic digestion will then take place; however, that period will be relatively short.

6.11 The building provides a single enclosed space in which the dairy enterprise will be conducted. In this manner cow flow is simplified and there is no prospect of rainwater coming into contact with dunged areas. Such “dirty water” is a common problem on many dairy units, principally due to open areas of yard and leads to increased polluted water which then has to be stored and spread on land.

6.12 Any livestock that is housed presents a requirement for ventilation. If a building is not adequately ventilated then there is a quick build up of respired air, such a build up increases relative humidity and promotes conditions for bacterial and viral infection. It is therefore essential that the proposed building should be adequately ventilated. Ventilation is proposed through variable cladding to both long elevations of the building, together with a ventilated ridge. It is my opinion that the proposed means of natural ventilation is wholly appropriate to the proposed building.

6.13 Overall the unit presents a modern, low labour solution to dairying. The building does not provide for all the requirements of the herd; there is no area for dry cows and I understand that the existing covered yards will be used for that purpose.

General comments

7.1 You have asked for my comments on a number of issues associated with the proposed development. Firstly, you have asked for my opinion on the location of the proposal. The applicants’ existing buildings represent a gradual expansion of a dairy unit over the last 20 years. Strictly in terms of space required, the new development could be accommodated within the area occupied by the existing farm buildings. The problem is that the dairy would need to remain operational through the period of the development. It is my opinion that the scale and intensity of operation for the existing dairy would make it impractical to use temporary milking facilities to redevelop the farmyard. The existing buildings are framed structures. The spans of the existing buildings and the configuration of the stanchions is such that the existing buildings do not offer sufficient clear span to introduce a new combined parlour and dairy and cow accommodation such as that which is proposed. Retro

fitting the new system in the existing buildings is not, therefore, in my opinion a practical proposition. It follows from the above that it is my opinion that the provision of the new dairy infrastructure can only be achieved through a new build rather than a redevelopment or refitting of the existing facilities.

7.2 Having asserted that a new build is the practical option it is then necessary to consider where the new build should be located. There is sufficient space available for the new build to be constructed on land within the existing "horseshoe" to the north of the farm buildings. I understand however that the land is affected by an underground sewer and the proximity of a Listed building. I have not seen the line of the sewer but I confirm that an adopted sewer will have a sterilisation area either side. I further understand that the applicants' intent is to avoid interference with the setting of the Listed building.

7.3 As indicated previously, the new proposal will still require the use of one of the existing covered yards for dry cows. Feed for the dairy cows will also be stored at the existing farm buildings so it is therefore sensible that the new building should be physically close to the existing buildings at the yard. The proposed location, whilst outside of the horseshoe, does have close physical proximity to the existing buildings.

7.4 The re-location of the dairy complex will release the two main covered yards, which lie each side of the parlour and will no longer be required for the dairy cows. The applicants advise that the northernmost building will be converted to an on floor grain store. At present the farm does not have adequate storage capacity for grain and storage for some 1,000 tonnes has to be rented annually at Wiltshire Grain. The overall floorspace of the northernmost covered yard is 49m x 30m. The floor area of the building is thus 1,470m². The building has a portal frame and could readily be converted to grain storage. Assuming a stored height of 2m the volume available for storage is 2,800m³; or 2,100m³ assuming 75% utilisation. Assuming a crop volume of 1.4m³ per tonne the required volume is 1,400m³; thus most of the building will be required for grain storage.

7.5 The southernmost covered yard will in part be converted to use as an improved store for feedstuffs. The remainder of the building will be used to accommodate bull beef. The bull beef unit will utilise male calves from the dairy herd. The system is entirely indoor, with the animals reared as entire (uncastrated) beef cattle over period of 12 – 14 months. The applicants advise that at maturity the system will accommodate some 140 animals per annum.

7.6 It is my opinion that the proposed grain store, feed store and bull beef unit will be appropriate and practical uses of the vacated covered yards.

7.7 The applicants have asserted that the new dairy unit will offer sufficient improvement in income and cost reduction to pay for itself over 20 years. I have been provided with a copy of the applicants' budget analysis of the proposal, prepared by their dairy consultant. The document has been provided to me directly by the applicants and on a confidential basis, on the understanding that my comments will be restricted to general observations.

7.8 The partial budget in the budget analysis report sets out the increased income from the additional dairy cattle and heifers and sale of straw (cubicles require less straw than covered yards), alongside the additional cost of the loan for the capital to fund the unit, the cost of increased level of feedstuffs and the loss of arable area to provide the additional forage for the cattle.

7.9 The biggest single cost to the business will be the loan capital; the biggest single income to the business will be extra milk sales from the additional cattle. The summary concludes that in cashflow terms the project will be broadly neutral to the business, however it will meet

the stated long term objective of a future in dairy farming for the next generation of the family.

Conclusion and opinion

The proposed building is appropriately designed to accommodate a dairy unit for 240 cows. The proposed building will provide a long term solution to remedy the existing problems with the operation of the dairy enterprise at Manor Farm. Whilst the building could, in physical terms, be located within the existing horseshoe formed by the public highway, the presence of a sewer and a listed building compromise that location. The financial evidence put to me indicates that the building will be largely neutral to the business, but will enable the continuation of the dairy enterprise.

8. Publicity

The application has been publicised by site notices (twice) and direct neighbour notification on three occasions- on the initial receipt of the application; when amended plans were received, and following the submission of additional information on noise and odour emissions, transport arrangements and farm business plan.

In excess of 60 letters of representation have been received, the contents of which state both support for and objection to the proposed development. Some of the representations comprise very lengthy reports which it is not possible to summarise: members are encouraged to look at all comments received via the Council website in order to appreciate the range and strength of opinion expressed in relation to this application.

The following matters are addressed:

The scale and design of the building

The impact of the development on the North Wessex Downs Area of Outstanding Natural Beauty

Noise issues (livestock and machinery)

Odour problems

Animal welfare of livestock in enclosed buildings

Traffic problems – volume and nature of vehicle movements

Dangerous road network

Light pollution

Surface water run-off

Area prone to flooding

Water course pollution

Industrialisation of the countryside

Unlikely success of the scale of operations (failures elsewhere)

Use of existing yard – to be abandoned? redeveloped?

Lack of justification for project

Effect on wildlife

Effect on enjoyment of countryside (walking, tourism)

Support for local economy

Farming practice progress

Security of future for agriculture

Solution to existing problems

9. Planning Considerations

The planning considerations to address in this case are:

- Principle of development in this location
- Impact on landscape
- Effect on biodiversity
- Impact on heritage assets
- Traffic and access safety and convenience
- Noise and odour emissions
- Residential amenity

Principle of development

The proposal comprises a large building to be sited within a protected landscape, outside the Limits of Development of any sizeable settlement. It also comprises the chosen means of the development and continuance of this established rural land-based business, which is a contributor to the local rural economy. Both environmental and economic facets of a proposal are important in determining whether it represents “sustainable development”, achieving which, according to advice in the National Planning Policy Framework 2012 should be the objective of the planning system.

Development in the countryside, and any erosion of the open, rural character of the landscape as a result, should be avoided, unless justified. If such reason for the development is shown, its effect should be minimised by all measures possible.

As can be seen in the assessment of the scheme by the commissioned Agricultural Advisor, the proposal is intended to secure the measured expansion and continuance of this established family farming enterprise. The new dairy, and the re-organisation of the use of existing farm complex buildings would address the problems currently experienced by the business in terms of logistics, stock health and welfare, storage and waste management. The proposal is considered to be feasible in terms of long term financial viability, land and buildings resource management, and compliance with new and foreseen environmental legislation. A range of measures is proposed to reduce the impact of the scheme on the landscape appearance, soil, water and air quality, highway network safety and amenity (especially tranquillity) of the area. Alternative means of achieving the same farming programme appear not to be feasible, because of the need for continuity in milking the dairy herd, and the likely greater visual and operational impacts on the environment that a different location for a new dairy building would have. In this instance, therefore, it is considered that justification has been demonstrated for this substantial agricultural development to take place in this location, and that the mitigation measures proposed, to reduce the impact of the scheme on its environment, are appropriate. The scheme is considered to comprise a form of sustainable development, which is supported by the guidance contained in the National Planning Policy Framework 2012, and accords with the objectives of policy NR6 of the Kennet Local Plan 2011.

Impact on landscape

It is clear that the proposed building would have a significant impact on close range views of the site from surrounding public and private vantage points (the lane, the C8 Devizes – Pewsey Road, public rights of way and residences). The proposed tree and hedge planting would assist in filtering the appearance of the building, although even with the inclusion of a number of standards among the trees to be planted in the first season, the full effect of the landscaping will not be felt for some years. The choice of trees for planting to all sides of the building should eventually give cover well above its ridge height (10.3 m) with Beech (30 m), Whitebeam (25 m), and Wild Cherry (18 m) all to be used, with smaller Field Maple (9 m) also giving variety in profile. Ash trees are also proposed, but their inclusion is questioned

given recent issues with die-back. The suggested condition would request the amendment of the planting schedule in this regard.

From the C8 road to the north, the existing line of Ash trees performs an important baffle to the site. The suggestion to incorporate some strengthening, and indeed, succession management of any declining specimens, for this belt of trees in the landscape mitigation strategy is sensible, to safeguard this feature for its own sake (as set out in the enhancement priorities for the Vale of Pewsey Landscape Character Area. The suggested condition would address this point.

Longer range views of the new building would group it with the existing development of Allington, and the impact of the extension of the settlement, while noticeable, is not considered to be unacceptable. The substantial vegetation proposed for the site edges would mirror the well-treed character of Allington itself.

With the landscaping measures set out in the submission, and as secured by the suggested conditions, the proposal would accord with the advice set out in part 11 of the National Planning Policy Framework 2012, and with the terms of policy NR7 of the Kennet Local Plan 2011.

Effect on biodiversity

Overall, the scheme would appear to bring the opportunity to enhance the biodiversity resource of the site and its environs, provided the implementation of the landscape strategy is secured. Again, the development would satisfy the requirements of part 11 of the National Planning Policy Framework 2012 and of policy PD1 of the Kennet Local Plan 2011.

Impact on heritage assets

The site, and area as a whole, has potential for below-ground heritage interest, which the recommended condition would identify and secure by record.

The public setting of the Grade II Listed Bethel Chapel, to the north east of the corner of the site, would be only marginally affected by the new building and its landscaping, as there are very limited public vantage points from which the site and the Listed Building would be read together clearly. Existing and proposed tree and hedge cover on both sides of the lane would separate the existing and new structures visually, and it is not considered that the significance of this heritage asset would be compromised or harmed by the proposed development.

The proposal is considered to accord with the guidance included in part 12 of the National Planning Policy Framework 2012, and with the requirements of policy PD1 of the Kennet Local Plan 2011.

Highway safety and access issues

The farm operates a one-way circulation around the loop road through Allington, to minimise the amount of current traffic emerging onto the C8 road at the western junction of the loop road, where visibility is very poor. There would be no requirement to change this practice as a result of the new building. It has been accepted that the nature and volume of traffic that the farm would generate as a result of the development would not exceed, and may even be less than, that currently experienced on the loop road and its junctions, so the development is considered to be acceptable in this regard.

The access and hardstanding requirements of the highways officer can be achieved without harming the character of the lane, and the suggested condition relating to design details of the surfacing, edging etc can also incorporate the wishes of the landscape architect, in terms of minimising the visual impact of the works. The terms of policy PD1 of the Kennet Local

Plan 2011 are satisfied by the proposals in this regard.

Noise and odour emissions

No objections are now raised to the proposed development, given the comprehensive and detailed information submitted by the applicant in relation to the issues raised by Environmental Health Officers. The full implementation and continued compliance with the specified measures can be secured by condition, ensuring that the proposal would accord with the advice in part 11 of the National Planning Policy Framework 2012 and the terms of policy PD1 of the Kennet Local Plan 2011.

Residential amenity

Strong and varied opinions have been expressed in relation to this case. Allington is a small settlement, grouped mainly around existing and former farming enterprises, but with the majority of residences not now associated with agriculture. As with many rural settlements, farming is likely to have shaped and enveloped the settlement traditionally, and where agricultural enterprises still operate, the settlement will be likely to continue to be affected by changes in agricultural practice. The scale and location of this proposed building, which would mark the next phase in the evolution of Manor Farm, is, undoubtedly, a step change in that progression, which would have a significant impact on the openness, outlook, and to a degree tranquillity currently enjoyed by a number of nearby residential properties not associated with the farm itself. However, it is considered that the development is justified in terms of its contribution to the prosperity of the rural economy, and that as far as possible, measures are secured that would minimise the visual and disturbance impacts of the development on the amenities of nearby residents. The development is considered to meet the expectations of good development set out in the National Planning Policy Framework 2012, and, on balance, in policy PD1 of the Kennet Local Plan 2011.

10. Conclusion

This proposal is a significant building project, which intends to secure the long-term future of the agricultural enterprise at Manor Farm Allington. The function of the building is appropriate to its context, and to the operations of the farm as a whole. The case made for the development is satisfactory, in that the feasibility of the project has been demonstrated, and the dismissal of alternative proposals for the siting of the building explained. With any proposed development project there is risk of financial uncertainty, and possible failure of the operation, but it is not appropriate to take a strict precautionary approach to all schemes unless the development would involve the loss of an irredeemable commodity (such as a protected habitat or heritage asset). In this case, it is considered that the balance of probabilities lies with the development, and that the greater likelihood of economic difficulty for the farm would ensue if its existing issues of logistics, storage, welfare and waste management were not addressed.

As a result of its scale the development would have a negative impact on the visual amenity of the immediate area, but the mitigating landscaping measures (both proposed and to be secured by condition) are considered to offset adequately the intrusion of the building into this greenfield site.

Subject to the listed conditions, the proposal is recommended for approval.

RECOMMENDATION

That planning permission be GRANTED, 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 of the materials for the walls, curtains, roof, bulk milk tank and feed silo to be used on the development 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: PD1 of the Kennet Local Plan 2011

3. No development shall commence on site until additional details for the management and enhancement of the existing belt of Ash trees to the north of the site have been submitted to and approved in writing by the Local Planning Authority. Details shall include a survey and report of the condition of all specimens, together with measures for the treatment, augmentation or replacement of the trees with new species. A schedule of maintenance for existing and new planting shall be included in the details, which shall form part of the approved Landscape Proposals and Management Strategy. 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: PD1 and NR6 of the Kennet Local Plan 2011.

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

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

POLICY: PD1 and NR7 of the Kennet Local Plan 2011.

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

REASON: In the interests of highway safety.

POLICY: PD1 of the Kennet Local Plan 2011.

6. Any gates shall be set back 7 metres from the edge of the carriageway, such gates to open inwards only, in perpetuity.

REASON: In the interests of highway safety.

POLICY: PD1 of the Kennet Local Plan 2011.

7. Prior to the commencement of the development hereby permitted access details shall be submitted to and approved in writing by the Local Planning Authority, which shall show the provision of entrance radii to either side of the southern access of 5 metres, without kerbs, and measures to prevent the discharge of surface water from both access points onto the public highway. The development shall be completed in accordance with these details. .

REASON: In the interests of highway safety.

POLICY: PD1 of the Kennet Local Plan 2011

8. No development shall commence within the site 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: PD1 of the Kennet Local Plan 2011

9. No external lighting shall be installed on site until plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage in accordance with the appropriate Environmental Zone standards set out by the Institute of Lighting Engineers in their publication "*Guidance Notes for the Reduction of Obtrusive Light*" (ILE, 2005)", have been submitted to and approved in writing by the Local Planning Authority. The approved lighting shall be installed and shall be maintained in accordance with the approved details and no additional external lighting shall be installed.

REASON: In the interests of the amenities of the area and to minimise unnecessary light spillage above and outside the development site.

POLICY: PD1 of the Kennet Local Plan 2011.

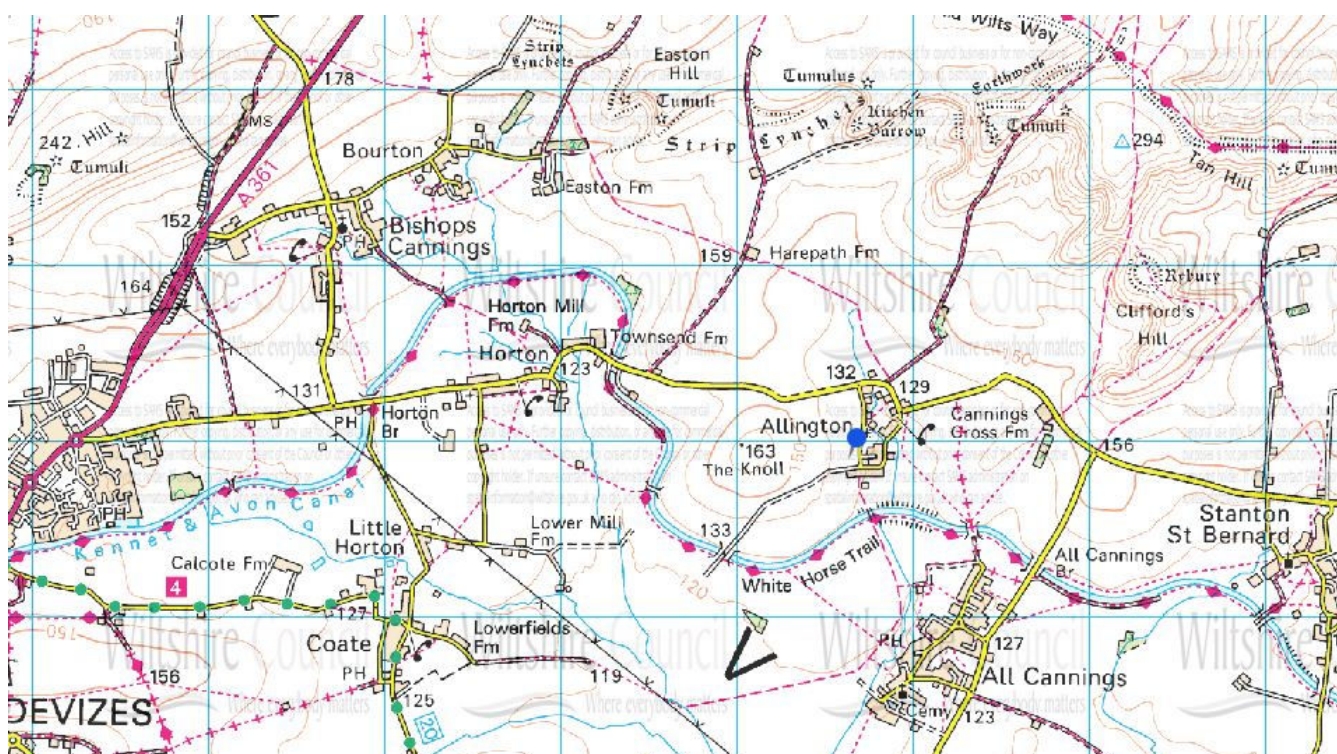
10. The development hereby permitted shall be carried out in accordance with the following approved documents and plans:

Application form received at Wiltshire Council on 21.11.12;
Design and access statement and planning statement received at Wiltshire Council on 21.11.12;
Ecological Appraisal received at Wiltshire Council on 21.11.12;
Landscape and Visual Impact Assessment received at Wiltshire Council on 21.11.12;
Landscape proposals and management strategy received at Wiltshire Council on 21.11.12;
Drawing referenced 3636/SK100 received at Wiltshire Council on 21.11.12;
Soakage calculations received at Wiltshire Council on 21.11.12;
Location plan received at Wiltshire Council on 21.11.12;
Longitudinal and lateral sections drawing received at Wiltshire Council on 18.04.13;
Amended block plan and elevations received at Wiltshire Council on 18.04.13;
Assessment of noise impact received at Wiltshire Council on 18.04.13;
Odour management plan received at Wiltshire Council on 18.04.13;
Transport statement received at Wiltshire Council on 18.04.13;
Existing yard use statement received at Wiltshire Council on 18.04.13;

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

POLICY: PD1 and NR7 of the Kennet Local Plan 2011.

11. The attention of the applicant is drawn to the contents of the attached letter from Wiltshire Fire and Rescue Service dated 10.12.12
12. The attention of the applicant is drawn to the contents of the attached letter from the Environment Agency dated 19.12.12



REPORT TO THE EASTERN AREA PLANNING COMMITTEE Report No. 2

Date of Meeting	1 st August 2013
Application Number	E/2012/1216/FUL
Site Address	Land to Rear Of Wilcot Road, Pewsey SN9 5EL
Proposal	Erection of 10 houses and 4 flats with access from Wilcot Road
Applicant	Pewsey Ltd.
Town/Parish Council	PEWSEY
Grid Ref	415956 160225
Type of application	Full Planning
Case Officer	April Waterman

Reason for the application being considered by Committee

This application has been called to the committee at the request of the division member, Cllr Jerry Kunkler.

1. Purpose of Report

To consider the recommendation to refuse the application for full planning permission.

2. Report Summary

This report is an update on that prepared for the 4th April 2013 Eastern Area Planning Committee, which concluded with a recommendation to refuse permission. The principal reason for rejection was as set out below:

1. The proposed development would be located within close proximity to established sources of noise that would be likely to cause unacceptable levels of disturbance to the occupiers of the units. Insufficient information has been provided to demonstrate that there would be no statutory noise nuisance experienced by the new residents. The impact of the existing neighbouring land uses, particularly in terms of noise and disturbance on the residential use of the site would be likely to represent an incompatible mix of land uses, resulting in poor levels of residential amenity, contrary to the terms and objectives of Policy PD1 of the Kennet Local Plan 2011. Furthermore, the introduction of a noise sensitive development on the site would be likely to place unreasonable restrictions on the continuance of the established businesses nearby, in conflict with the advice contained in the National Planning Policy Framework 2012. The proposal is therefore considered not to accord with national and local planning policy and guidance.

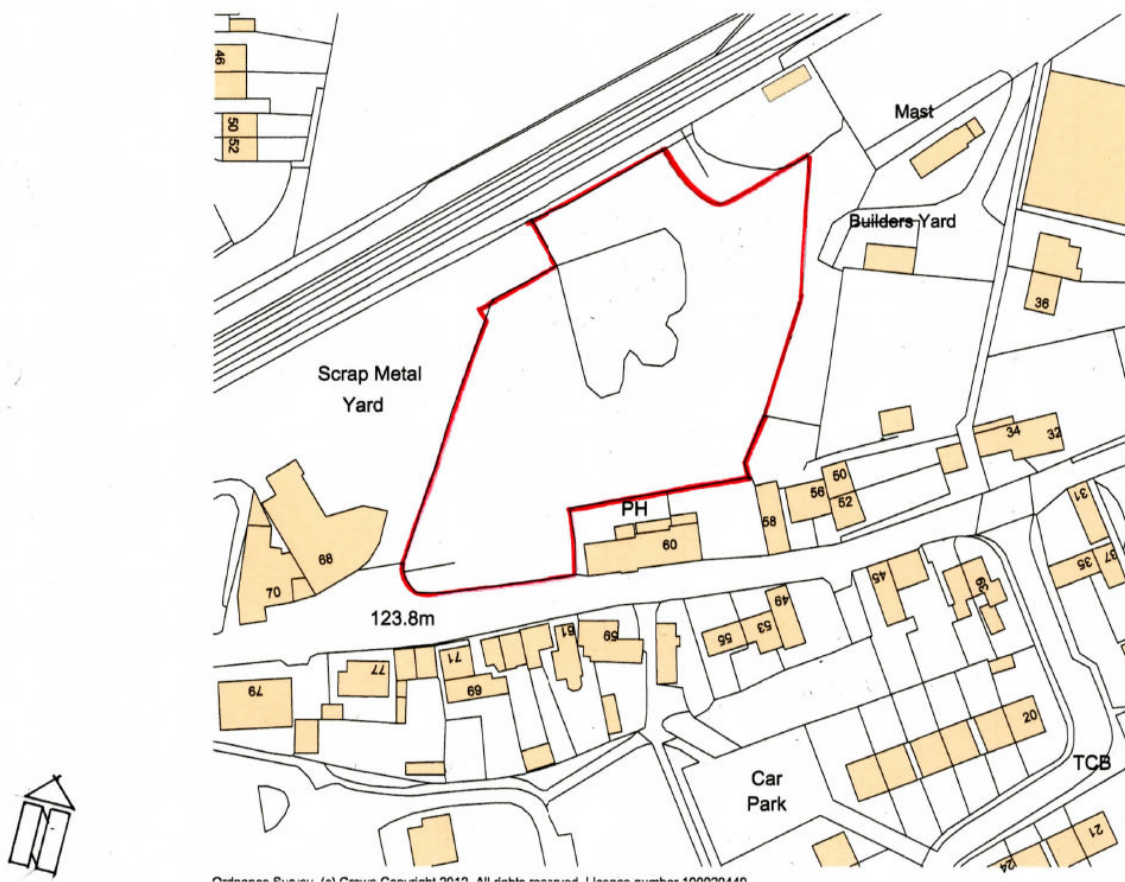
Two further recommended refusal reasons related to the lack of mechanism for providing adequate recreational facilities and highway works that the scheme would require (although these matters could be addressed in a legal agreement prepared after the committee, in the event of the members resolving to approve the scheme).

Following the publication of the report on this case for the 4th April 2013 EAPC, the application was withdrawn from the agenda, to allow the applicant to undertake further survey and analysis work on the noise issue, on which the Council could then base a judgement.

3. Site Description

This 0.49 hectare parcel of land lies towards the north western end of the settlement of Pewsey, with a road frontage on to part of the one-way section of Wilcot Road between the Crown Inn PH and Pewsey Metal (a.k.a. Black's scrap yard and recycling facility). The site wraps around the back of the pub and its small garden. To the east of the site lie the rear gardens of residential property fronting Wilcot Road, a builder's yard and car parking for the railway station. The main West Country – London railway line forms the northern edge of the site, and to the west is the scrap yard. Housing runs along the south side of Wilcot Road, opposite the frontage. There are a number of street-edge parking spaces on the north side of Wilcot Road, which are time-limited. The site is bounded by a mixture of constructed fences (metal, timber, post and wire, chain link and block wall) and by hedging, some of which has grown on to tree size on the Wilcot Road frontage.

The site falls within the Limits of Development for Pewsey. A strip along the site frontage of Wilcot Road lies within the Conservation Area, but the majority of the land falls outside this designation.



LOCATION PLAN 1 1250

The land is predominantly level, both within the site and with its neighbouring plots, although there is a significant slope down to the railway cutting at the northern edge of the site. The land within the site has been cleared of brambles and trees, except for a field maple in the south western corner.

The submitted site outline plan has been amended to show the correct alignment of its eastern boundary, where it meets the rear garden of no. 58 Wilcot Road. The applicant has not amended the position of the application site boundary adjoining the western edge of the curtilage of the Crown Inn PH, notwithstanding a claim from the owner of that property that its alignment is incorrectly shown. Copies of the applicants' title plan (Land Registry) have been submitted indicating the extent of land ownership.

4. Planning History

Planning permission has been sought for a variety of residential developments on this site.

K/55760/FUL	Erection of 6 houses and 18 flats	Withdrawn 30/03/2007
K/46067	Erection of 19 houses and construction of access	Refused 26/11/2003 Appeal withdrawn 17/12/2004
K/44383	Erection of dwelling	Refused 10/12/2002
K/16916	Erection of 21 low cost starter homes	Refused 01/08/1991 Appeal dismissed 29/04/1992
K/15255	Erection of 25 starter houses	Application withdrawn May 1990

In all but the most recent case (withdrawn in advance of determination) the potential disturbance to the prospective residents of the development from the scrap yard to the west of the site has featured in the reasons for refusal of planning permission, and in the Inspector's appeal decision. Although not binding on the Council, the last correspondence from the planning officer with the agent on the most recent case (K/55760) did not cite the issue of noise disturbance as a likely reason for planning permission being refused. Instead, acoustic treatment of fenestration and vents was noted as likely to reduce the noise exposure to residents from both the adjoining scrap yard and the railway line.

The planning history of the adjoining scrap yard is also of importance to this case.

Appeal	Against the imposition of the time period condition on K/79/279.	Appeal allowed 05/12/1980 in effect permitting the use permanently.
K/79/279	Renewal of permissions to use land for storage and conversion of scrap metal and including office accommodation building	Approved subject to time-period condition (until 31/12/1984) 24/01/1980
	Two previous temporary (5 year) permissions	

Other conditions imposed on the K/79/279 permission restricted scrap metal conversion operations to the hours between 08.00 and 17.00 Mondays-Fridays, and 08.00 and 12.00 on Saturdays (no such operations to be carried out on Sundays or Bank Holidays), and for storage and conversion activities to be limited to a specific area of the site (excluding a strip 5 metres wide adjoining the current planning application site). The appeal did not contest these conditions, and the Inspector did not alter them or remove them from the permission.

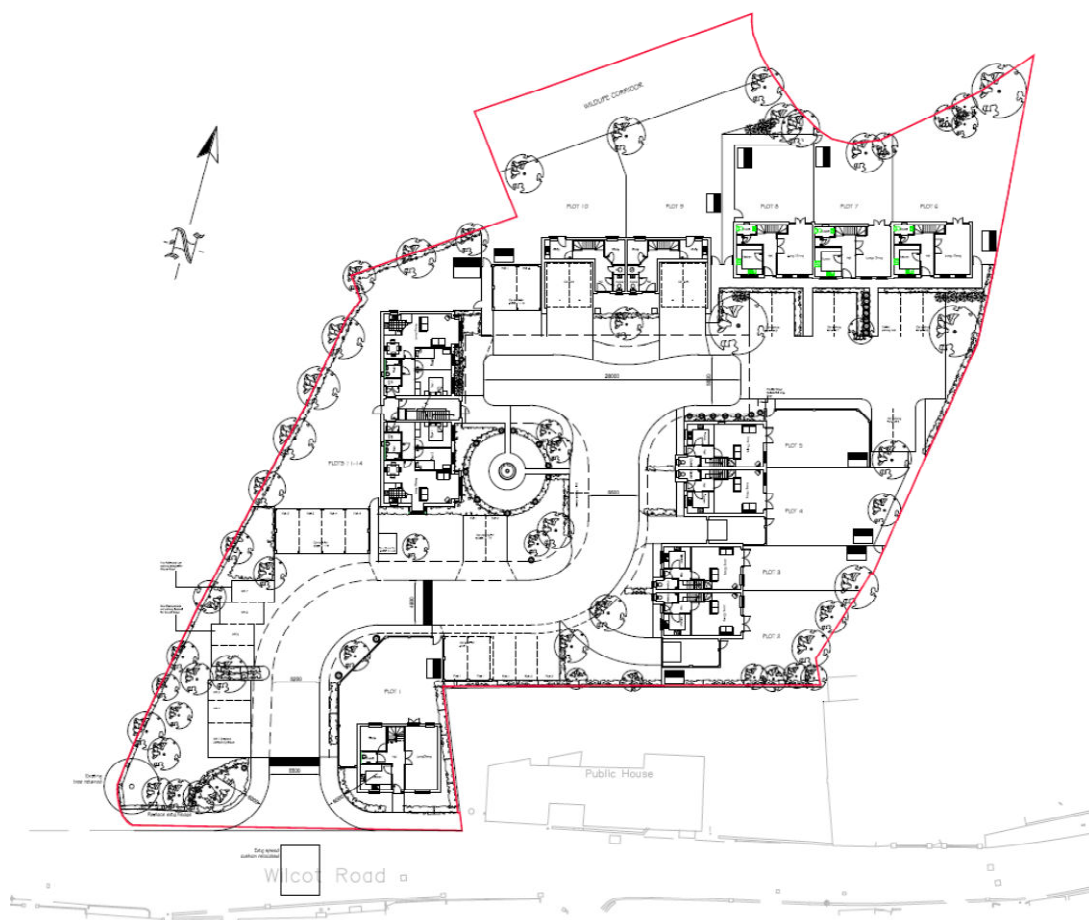
5. The Proposal

Full planning permission is sought for the erection of 14 dwelling units, comprising two-storey detached, paired or terraced houses, a block of two-storey flats, and a pair of two-and-a-half-storey houses. A new access road is proposed to serve the development from Wilcot Road. The scheme layout and its landscaping have been amended in line with recommendations made on highways, parking and planting schedule issues. The layout includes 7 car parking spaces (one of which has disabled parking space dimensions) to replace (and exceed) those lost from the Wilcot Road frontage. The strip of land closest to the railway cutting is excluded from the plot 9 and 10 gardens, and is reserved as a wildlife corridor.

Should planning permission be granted for the development, the applicant has agreed to enter into a Section 106 agreement with the Council to secure financial contributions to cover various works to the highway and traffic orders, and to contribute towards the provision of public recreational facilities off-site. In-detail work to prepare the agreement has not yet commenced.

In addition to the plans, the application included reports into the assessment of the ecological, arboricultural and archaeological resource of the site, a report of investigations into the potential for the site to include soil contamination and an assessment of the impact of noise emissions from existing surrounding land uses on the proposed residential development. The application was also accompanied by a Code for Sustainable Homes Pre-Assessment, which gave a predicted Code Level 3 rating for all units on the site.

In response to the initial and later comments of the Environmental Health Officer, and the recommendation to committee to refuse the application (see report on the agenda for the 04 April EAPC), the agent has made further submissions on noise matters. For ease of reference, the details of these submissions are set out in the consultation section of this report.



6. Planning Policy

National Planning Policy Framework 2012

Kennet Local Plan 2011

PD1 Development and design

HC35 Recreation provision on small housing sites

NR4 Nature conservation outside designated sites

HH1 Protection of archaeological remains

7. Consultations

Pewsey Parish Council

THE PARISH COUNCIL SUPPORTS THIS APPLICATION AND OFFER THE ATTACHED TYPED LIST OF COMMENTS FOR YOUR CONSIDERATION:

1. *Site Access*
 - *There should be a rumble strip sited at the entrance to the development to encourage traffic exiting the site to slow down.*
 - *There should be a stop sign at the junction with Wilcot Road.*
 - *A one-way sign should be sited opposite the exit so that traffic leaves the site turning right only.*
 - *There should be no protrusion of the development onto the main highway of Wilcot Road, the development should be flush with the current highway boundary.*
2. *Additional Parking*
 - *There should be an increase of parking provision just inside the entrance from 4 spaces to 10, including 1 disabled bay, that can be used by members of the public.*
3. *The location of the gas tank to fuel the site is not shown.*
4. *Confirmation is required of the future site maintenance and management.*
5. *The Parish Council expect the letter from Mr Hughes to be fully investigated by the Environmental Health department as the PC are not acoustic experts.*
6. *A bund should be built towards the north as added protection from the rail track noise which will not affect the wild life corridor.*

Pewsey Parish Council (amended plans)

THE PARISH COUNCIL SUPPORTS THIS APPLICATION AND OFFER THE ATTACHED TYPED LIST OF COMMENTS FOR YOUR CONSIDERATION:

1. *Site Access*
 - *There should be a stop sign at the junction with Wilcot Road.*
 - *A one-way sign should be sited opposite the exit so that traffic leaves the site turning right only.*
2. *The location of the gas tank to fuel the site is not shown which is of significant importance.*
3. *Confirmation is required of the future site maintenance and management.*
4. *The Parish Council expect the letter from Mr Hughes to be fully investigated by the Environmental Health department as the PC are not acoustic experts.*
5. *A bund should be built towards the north as added protection from the rail track noise which will not affect the wild life corridor.*
6. *The relocated speed hump directly in front of the exit from the development interferes with the pavement on the south side of the road.*
7. *The pub landlord's boundary problem has been addressed, and although this is not a planning matter it is of importance to a very close neighbour.*

Parish Council (additional noise survey report)

Pewsey Parish Planning Committee meeting is scheduled to discuss the case on 24/07/13, so comments were not available at the time of the preparation of this report. Comments received before EAPC will be reported verbally.

Highways

I refer to the above planning application. I recommend that this application be refused on highway grounds for the reasons given below:-

- 1. The proposed development requiring the loss of 6 on-street limited waiting spaces from Wilcot Road (in an area where there is considerable parking pressure) makes inadequate provision to replace those spaces, and also does not provide sufficient curtilage and visitor parking for the residential development proposed. For these reasons the proposed development, would lead to indiscriminate parking and to additional parking on nearby roads to the detriment of the safety and convenience of road users.*

NB The Council's current minimum parking standards require 3 spaces for 4 bedroom dwellings and 1 visitor parking space per 5 dwellings. A 5.5 metre carriageway estate road could accommodate some parking but a 4.8 metre road as proposed is considered inadequate to provide regular parking within the carriageway in a safe and convenient manner.

- 2. The submitted details are inadequate to enable the highway aspects of the proposed development to be properly considered and assessed. The Site Layout plan does not detail the correct Wilcot Road highway situation, in that the footway on the opposite side of the road and the nearby limited parking areas have not been detailed. No track has been provided of the correct sized refuse vehicle to prove that the proposed junction and estate road will safely accommodate refuse vehicle, and removal lorry movements.*

Any revised plan should detail low-key traffic calming such as a 1metre wide rumble strip located about 5 metres into the site and a further strip about 32 metres further in (beyond the first bend).

It may be appropriate to relocate the Wilcot Road no-entry signs to just east of the site access (enabling the residents of the development to access the site directly from the west), but I am discussing this with traffic officers. If so the developers would be required to fund this and the required traffic order amendments.

Highways (amended plans)

I refer to the above planning application, and to the amended plan 2089/18/A. The plan is satisfactory from the highway point of view. Any grant of permission should be conditioned to cover the following points:-

- 1. Prior to first occupation the footway over the site frontage shall have been constructed in accordance with details to be first submitted to and approved by the Local Planning Authority.*
- 2. A negative condition that the development shall not be occupied until the relocation of the speed control cushion near the entrance to the site has been advertised, any objections received been reported to the lead cabinet member of the council, and the relocation of the cushion been implemented in accordance with details to be first submitted to and approved by the Local Planning Authority, - in the event that the lead cabinet member decides to approve the relocation.*
- 3. A negative condition that the development shall not be occupied until a Traffic Regulation Order for the relocation of the existing no-entry signs west of the site entrance to a position to*

the east of the site entrance has been advertised, any objections received been reported to the lead cabinet member of the council, and Traffic Order been implemented in accordance with details to be first submitted to and approved by the Local Planning Authority, - in the event that the lead cabinet member decides to approve the Order.

4. *A negative condition that the development shall not be occupied until a Traffic Regulation Order for the alteration of the on street parking on Wilcot Road near to the site entrance, including the imposition of any required waiting restrictions within the site, has been advertised, and the approved changes implemented.*

The applicants should be advised that they will be required to bear the costs of the above 4 points including all traffic order and traffic calming advertisement costs, and that it will be essential for a Section 38 Agreement to be entered to secure the adoption of the road within the site as public highway, in order that replacement highway parking for the on-street Wilcot Road parking can be achieved.

Public Protection (contaminated land)

The comprehensive Site Investigation document concludes a low risk of contamination at the site with the only aspect that they cannot be 100% about being if the site has any 'made ground'. They recommend either a watching brief during the development phase or establishing if any material has been imported by using some boreholes and I would like to see confirmation of which method is to be used. This can either be agreed as part of the application phase (I suspect they will use bore holes as they will want to check the soil chemistry – sulphates etc) or by a condition. If it is to be the latter I would look for the basic contaminated land condition below to apply please – this covers either option – Part 'A' if they do further investigation (submit the report and conclusions) or B & C if they chose the watching brief approach:

Should the boreholes establish a problem then obviously we would need to discuss the matter with the applicant and their consultants at that time.

CONDITION WORDING

No development shall commence on site until an investigation of the history and current condition of the site to determine the likelihood of the existence of contamination arising from previous uses has been undertaken and until:

- a) *The Local Planning Authority has been provided with written confirmation that, in the opinion of the developer, the site is likely to be free from contamination which may pose a risk to people, controlled waters or the environment. Details of how this conclusion was reached shall be included.*
- b) *If, during development, any evidence of historic contamination or likely contamination is found, the developer shall cease work immediately and contact the Local Planning Authority to identify what additional site investigation may be necessary.*
- c) *In the event of unexpected contamination being identified, all development on the site shall cease until such time as an investigation has been carried out and a written report submitted to and approved by the Local Planning Authority, any remedial works recommended in that report have been undertaken and written confirmation has been provided to the Local Planning Authority that such works have been carried out. Construction shall not recommence until the written agreement of the Local Planning Authority has been given following its receipt of verification that the approved remediation measures have been carried out*

REASON: To ensure that land contamination can be dealt with adequately prior to the use of the site hereby approved by the Local Planning Authority.

POLICY- PD1 of the Kennet Local Plan 2011

Environment Agency

We have **no objection** to the proposed development **subject to the following conditions and informatives** being included in any planning permission granted.

Potentially Contaminated Land

We note that the planning application makes reference to the redevelopment of a Brownfield site. However, it is unclear from the detail submitted what previous commercial use the land has been used for. However, we are mindful of the fact that the land could have historically been used for potentially contaminating uses, and such uses have been developed on land adjoining the site. Therefore there is potential for the site to be contaminated.

CONDITION

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

REASONS

To protect controlled waters from pollution.

Surface Water Drainage

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.

INFORMATIVE

The surface water soakaways may require the approval of the Local Authority's Building Control Department and should be constructed in accordance with the BRE Digest No 365 dated September 1991 or CIRIA Report 156 "Infiltration Drainage, Manual of Good Practice". Only clean, uncontaminated surface water should be discharged to soakaway.

Water Efficiency

CONDITION

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

REASON

In the interests of sustainable development and prudent use of natural resources.

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.

An appropriate submitted scheme to discharge the condition will include a water usage calculator showing how the development will not exceed a usage level of 105 litres per person per day.

Pollution Prevention During Construction

INFORMATIVE

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

NOTES TO APPLICANT

Sustainable Construction

Sustainable design and construction should be implemented across the proposed development. This is important in limiting the effects of and adapting to climate change. Running costs for occupants can also be significantly reduced.

Waste Management

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 require more specific guidance it is available on our website www.environment-agency.gov.uk/subjects/waste/.

INFORMATIVE

In England, it is a legal requirement to have a site waste management plan (SWMP) for all new construction projects worth more than £300,000. The level of detail that your SWMP should contain depends on the estimated build cost, excluding VAT. You must still comply with the duty of care for waste. Because you will need to record all waste movements in one document, having a SWMP will help you to ensure you comply with the duty of care. Further information can be found at <http://www.netregs.co.uk>

Ecologist

I have now reviewed the submitted 'Extended Phase 1 Habitat Survey' report (January 2012). I understand that the site was cleared of vegetation several months before the survey took place and it now comprises large areas of bare ground and ruderal vegetation, with low ecological value. Prior to clearance the site appears to have been a disused patch of land, likely providing refuge for local wildlife, particularly given its location adjacent to the railway corridor with connectivity to adjacent habitats.

The ecology survey found no evidence of protected species, although it is possible that low numbers of reptiles are present along the site margins, and breeding birds are likely to use the site. Appropriate management measures are given to dissuade reptiles from re-colonising the site prior to construction; an Informative should be issued to provide advice for both reptiles and breeding birds (see below).

The proposed plans show that the undevelopable area of land adjacent to the railway will be retained as a 'wildlife corridor'. There is no access to this area (it is located to the north of residential gardens) and no proposed management. This area of scrub will however be beneficial in retaining connectivity along the railway corridor.

I have no objection to the proposed plans and recommend that the following Informative is issued:

'The adults, young, eggs and nests of all species of birds are protected by the Wildlife and Countryside Act 1981 (as amended) while they are breeding. Vegetation should be cleared outside

the breeding bird season unless checked by a competent ecologist beforehand. The season is usually taken to be the period between 1st March and 31st August but some species are known to breed outside these limits. Reptiles are also protected under the Wildlife & Countryside Act 1981; the site should be continually managed prior to construction work in order to dissuade reptiles from colonising the site, further details are provided in section 4.4 of the 'Extended Phase 1 Habitat Survey' report (January 2012).'

Additional comment, in relation to identification of Fine-leaved Water Droplet in the Phase 1 Habitat Survey report:

I am of the firm opinion that the consultant ecologists probably mis-identified the plant. The plant is found in or very close to water and there is no running or standing water on the site and it is not even within the floodplain. It is always possible that the plant has been moved into the site from somewhere else perhaps on tractor or digger wheels (I understand the site was cleared by machine prior to survey) although it is unlikely to survive here on a permanent basis if this is the case, since the site will not be wet enough.

However, the consultant ecologists have recorded its presence on the site and it would be a notable plant for the Wiltshire flora if it is correct, however unlikely we feel this might be.

I therefore request that a condition be added that requires a further survey specifically for this plant, prior to commencement of ANY works on the site, and if it is found then a mitigation strategy will be required to show that the plant can be accommodated in an ecologically appropriate area of the site or translocated to a suitable alternative location.

Arboricultural Officer

There is not much to say about the proposed scheme, which now has very limited tree cover across the site. The row of Hawthorn in the vicinity of the proposed entrance has some wildlife value, but is out of keeping with the rest of the street. The landscaping scheme seems appropriate for the main, but I would recommend the following:

- All Ash to be removed from the scheme and replaced with Wild service tree, or similar.*
- The larger tree species on the western boundary to be spaced further apart giving the trees a little more room to develop unhindered by its neighbour as it matures.*
- The removal of all Blackthorn from the hedging mix replacing it with Hawthorn bulked up to 70%, with Hazel/Privet/Holly and Field maple making up the remaining percentage. Blackthorn has a tendency to spread through root suckers and is likely to be problematic in the long-term.*

Land Adoptions Officer (Open space)

Having corresponded with Pewsey Parish Council the contribution to be sought is towards provision of Recreation Facilities to be located at the Pewsey Campus. The Pewsey Campus is located off Wilcot Road at the leisure centre, which is almost directly opposite the proposed development.

The figure has been arrived at in accordance with Policy HC35, and the East Wiltshire Community Benefits SPG. The calculation was £3,048 per dwelling x 14 Dwellings, thus £42,672 total.

Archaeology

The proposed development is of some archaeological interest. The archaeological assessment report acknowledges the general potential for the Pewsey Vale for remains from the prehistoric period and there have been a number of finds relating to this period in the vicinity of the site. It is considered that there is low potential for archaeological remains for all other periods. Therefore, in line with the National Planning Policy Framework 2012 I recommend that a programme of archaeological works is undertaken, likely in the form of an archaeological watching brief during construction on site.

North Wessex Downs Area of Outstanding Natural Beauty

The North Wessex Downs AONB Unit raise no comments in respect of the principle of this development. In terms of the overall design it is bland and does not respect the local style in terms of detailing, fenestration, chimneys, etc. so improvements could be made.

Wiltshire Fire and Rescue Service

Requests a contribution of £1065.82 towards the provision of hydrants and water supplied for fire fighting, and additional or enhanced fire and rescue service infrastructure

Wessex Water

Standard information supplied relating to the need for water supply and waste water connections to be made to serve the development. No objections raised to the proposals.

Environmental Health Officer (Environmental Control and Protection)

There are 3 main noise sources to consider, the public house, the railway and the scrap yard. I will discuss each in turn:

Public House

It is accepted that the proposals for design and layout of the site will mean that the proposed properties will be better protected from potential noise from this source than current properties. This department has received complaints regarding noise from this public house in the past, in 2007 and 2009. These complaints appear to have been one offs and no further action was taken. This department would not recommend refusal of this application based on noise from the public house.

Railway

The assessment has been made in line with the method of (withdrawn) PPG24 as recommended. The assessment is based on train movements over one night and section 3.6 states that a review of the rail timetable suggests a maximum of 5 passenger trains passing the site and an estimate of 3-4 freight trains. It is vital that the applicant confirm that these assumptions in writing with Network Rail. On the basis that these assumptions about the number and type of rail movements overnight can be confirmed it will be necessary that alternative means of rapid ventilation are provided. Please see my further comments below regarding ventilation.

Scrap yard

This source remains our greatest concern. I have been advised that the scrap yard is limited to hours of operation by planning conditions. Scrap metal conversion should only take place 08:00-17:00 Monday – Friday and 08:00 – 12:00 Saturday. This restriction prevents noisy work being carried out on the site at more sensitive times.

There is also the possible 5m access road between the scrap yard and site in question. If this area was cleared it would increase the distance between the noisy work and residential properties. However, the significance of this increased distance is not assessed in the report and is likely to be slight. We note that the reported legal requirement for a 5m gap has not been enforced at this time

and without any independent guarantees that such a requirement can and would be enforced at a future date it would be wrong to assume anything other than the status quo.

The layout of the proposed dwellings and the figures that the noise calculations are based on have not changed since the pre planning enquiry. As such, my comments are similar: The proposed layout is shown to be effective at reducing the sound levels in 'habitable rooms' to a level that could be considered acceptable. The calculation of the sound levels are based on measurements taken on two separate days and on a number of assumptions.

With respect to Sections 3.7 and 3.8 of the report; no information is presented which demonstrates why the applicant believes the full range of noise making activities carried out at the scrap yard were assessed by the two noise surveys referred to in the acoustic report. If such information does exist we would be pleased to receive it.

Secondly, as above, the noise assessment and its conclusions are based on measurements taken on two separate days. Without any information, such as confirmation from the operator, that the level of activity on these days was "typical" we are not convinced that the noise surveys on the two days mentioned can be confidently said to be representative of activities on site by the current operator. If evidence to the contrary is available then we would be pleased to receive it.

My response earlier this year requested historical noise assessments that had been mentioned to us during conversations with the applicant. It had been suggested to us that the historical noise assessments showed similar results to the submitted noise assessment and would back up this assessment.

During a site visit in March this year [2012] it was pointed out by the applicant on a number of occasions that the scrap metal yard had reduced its operations considerably, therefore the sound levels that potential residents would be exposed to could be mitigated by the layout of the site. Unfortunately the fact that the scrap yard operations are currently reduced means that the noise data that has been submitted may not be representative of the sound levels that residents could be exposed to should operations on the site increase in the future. The calculations are based on the assumption that noisy activities will take place for 15 minutes in each hour. The noisy activities on the site would only need to double for the predicted sound levels to increase by 3dB and therefore become unacceptable.

Letters of representation have been submitted to the planning team by some local residents. Comments made in these letters back up our opinion that the noise assessment for the scrap yard does not satisfactorily illustrate the sound levels produced by work at the scrap yard.

This department has to consider not only the current activity but also the class of use on neighbouring sites. The scrap yard is a large site which under planning can be used as a scrap metal site. Waste management companies sometimes actively search for sites with this class of use. If they find they are able to buy the site they would not have to apply for planning permission to move in and could significantly intensify activities. Notwithstanding this, the current owner of the site could significantly intensify his level of activity on the site. In either event such intensification would be perfectly legal and would invalidate the assumptions used within the noise assessment. Given the application and noise report highlights that the scrap yard site is currently under used we would suggest that future intensification of use, with obvious implications for noise levels on site, is foreseeable.

With respect to the BS4142 assessment; paragraph 5.2.2 suggests the use of BS4142 to assess noise of an industrial nature affecting new housing is debatable. We do not agree. I would highlight a paragraph from the foreword from BS4142 which I attach here for completeness, contradicts that assertion. "The standard is intended to be used for assessing the measured or calculated noise levels from both existing premises and new or modified premises. The standard may be helpful in certain aspects of environmental planning..." The BS4142 assessment has indicated that noise from the scrap yard will be just above "marginal significance" at various points on the development

site.

Despite a 5dB correction being added for impulsive noises the method cannot account for the sudden, maximum sound levels that are shown in figures 4,5 and 6. In Figure 6 a peak marked as 'metal loading/unloading' reaches nearly 90dB. These are significant individual noise events which will be very apparent to the people living adjacent. The BS4142 methodology effectively "smooths" out the impact of this type of noise event during the day because it is based on equivalent continuous noise levels and this is a recognised flaw in the BS4142 methodology.

Section 5.2.2 (3) makes reference to a court case involving Mildenhall Stadium. This is an interesting example but should be distinguished from the current situation. That case concerned the use of BS4142 in the consideration of noise nuisance and not the use of the standard in a land use planning capacity. The standard itself makes no reference to "who was there first" and nor does PPG24. The case is however an excellent example of where the character of an area and existing planning approvals for businesses can seriously limit the availability of remedies for people affected by noise nuisance who moved to an area containing an existing noise source. These same considerations can and do also limit the powers of Councils in using their statutory powers to address nuisance.

I note that the noise assessment recommends in 5.1.6 that alternative ventilation is installed for all habitable rooms and the preferred method should be determined by the architect. Unfortunately I cannot see a preferred method in the design and access statement or plans. Has this matter been overlooked?

The applicant has highlighted the newly adopted National Planning Policy Framework. We would also like to highlight that document and in particular how it makes clear that existing businesses should be protected from the impact of changes in land use nearby after they are established. We are concerned that this is exactly the situation that might occur if planning approval is granted for this development. Both the assessment of internal noise levels (and corresponding specification of the necessary glazing and ventilation) and the BS4142 assessment are based on the questionable assumption that the intensity of use the scrap yard will not significantly increase in the future. Perfectly legal intensification of the scrap yard would increase noise levels and invalidate the noise assessment and its conclusions. It may also lead to statutory nuisance. Where a Council is satisfied that a nuisance exists it is legally obliged to take enforcement action against those responsible. This can lead to expensive and protracted legal proceedings and could lead to extensive legal costs for and restrictions on the operation of the businesses involved. Notwithstanding that it is not guaranteed that action by the Council can always resolve nuisance caused by businesses. Unfortunately we have recent experience with a large business who accepted they were causing a nuisance but nevertheless successfully pursued an appeal against the Council. The company has been permitted by the Court to continue operating under their existing arrangements and continue to cause a nuisance.

Based in the information supplied with this application this department has to recommend that the application is refused because of serious concerns that future residents may be unacceptably disturbed by noise from the surrounding land uses.

Agent's response to initial EHO comments

It would appear that Vicky Brown's comments on our application fall into two categories. The first being the number of surveys undertaken on the site and the second being the possible intensification of use of the site. There is however an agreement that the working hours of the scrapyards are restricted by planning condition. There is also an agreement that the proposals are acceptable in absolute terms given the sound recordings provided with the current application. There are several matters like the exact type of attenuated sound ventilation that can be correctly dealt with by planning condition.

1. It is well established through Case Law that every application must be considered on its own merits. This legal precedent is clearly not being applied by the Environmental Health Officer to the extent that the consideration of our application seems to be related to a recent case of “nuisance” on another site with different circumstances to our own. This is clearly an unrelated case, whatever its financial outcome for the Council, and consideration of our application must not be linked to this other case.

2. The Appeal decision in 1980, in granting planning permission for the continued use of the adjoining yard also imposed conditions. The Inspector, representing the Secretary of State, imposed conditions relating to time of operation and specific areas of the site where work could be lawfully carried out (shown hatched on the plan) and the maximum height of stored materials

3. If the Environmental Health Department are concerned about possible intensification and how the yard is operating then the above mentioned appeal clearly sets out what the scrapyard operator has valid permission for. These conditions are enforceable. It is therefore somewhat surprising that on investigation of all complaints concerning noise levels received by the Council in the past ten years, no enforcement action was taken. Four complaints were received. A complaint was received from a resident of Wilcot Road on 17/9/2008, the complainant was advised that there were no restrictions on the operating hours of the business. This was clearly incorrect advice as the Appeal decision in 1980 clearly restricted hours. No action was however taken. A complaint was received from a resident of Cossor Road on 1/9/2009, the complainant was again misinformed by the Council and told that there were no restrictions on the hours of operation of the scrapyard. When seeking confirmation from the operator of the scrapyard as to the hours of working he stated that “he never started work before 7.30 am”. This is in effect an admission of a breach of the lawful working hours granted in the Appeal, dated 1980, which restricted starting hours to 8.00 am. No action was however taken. A complaint was received from a resident in Cossor Road on 4/6/2010, again he was incorrectly informed that there were no restrictions on the hours of work activity on site. The owner of the scrapyard did not reply to an EHO letter, this was not followed up and the case was closed on 8/7/2010. The same resident in Cossor Road complained again on 4/7/2011 and clearly stated that the crane was being used at 7.00am an hour before the consented start of operations. No action was taken and the case was closed on 4/8/2011. These are the only four complaints made during the last ten years and have been obtained from your Office of Information Ref RFI 4839. Four complaints from three local residents over a period of ten years does not on the face of it represent a major noise nuisance, but even so the Council could have enforced a reduction in activity of the scrapyard, if they had chosen to do so, by applying the terms of the 1980 Appeal planning Conditions. The Council still has these powers today to enforce a reduction in activity.

4. The same Appeal decision on 1980 also restricted the area of operation and specifically excluded a 5m wide strip of land running parallel with the common boundary of our client’s site and for its entire length. This strip of land has to be kept clear at all times as the owner of the application site has a right of way over this 5m strip of land. This strip of land’s exclusion from the permitted operating area is clearly an enforceable planning Condition. However it appears that this strip of land is being actively used by the operator of the scrap yard in clear breach of the conditions imposed by the Secretary of State. The Council has never taken enforcement action over this land. Every time we have been on site the strip of land was in active use and a scan of Google Earth will also confirm this.

5. The Planning Inspector (representing the Secretary of State), clearly did not consider intensification to be a credible risk or likelihood and neither should the Council. Paragraph 10 of the Inspectors decision letter clearly stated:

“Much of the concern has arisen as a result of the changed management leading to more intense activity at the scrapyards, added to which are fears of future growth. In my opinion both the physical limitations of the site and the restrictions imposed by other planning Conditions make a further significant increase in activity unlikely.”

The Council have chosen not to enforce any of the planning Conditions applicable to this site and the site continues, it would seem, to operate outside of its permitted hours and also to encroach on land that has no planning permission for scrapyards use. The same Appeal decision also restricted the height of storage to 3m. If these conditions were actively enforced by the Council this would ensure that rather than an increase in activity from its current levels, a decrease would occur. The site is constrained from physical growth due to its triangular shape formed by Wilcot Road, the railway and our application site. In addition all activity on site is further restricted to the cross hatched areas referred to in the Inspector's 1980 decision. Any future new owner wishing to carry on a use as a scrapyards would be bound by the same limiting planning Conditions, any change of operation would also be subject to a new planning application.

6. The original planning application in 2006 included two noise surveys by W S Atkins; the current application contains the results of two separate noise surveys. In addition the Hospital site also contained noise surveys taken in 2002. These noise surveys are all in the possession of the Council. The various noise levels taken over a period of ten years and individually spread over days/weeks are consistent with the current results recorded and clearly demonstrate that the average noise levels are indeed consistent. The adjacent Depot site realised higher train noise than our site and no further surveys or information was requested in that recent application restricting hours of work, areas of work and height of storage in the Appeal case. The Council has the benefit of the 1980 Appeal decision which clearly empowers it to enforce less activity on site should it choose to do so. Indeed any intensification of use can be a “material change of use” in Use Class Order terms, if any intensified use significantly changes the nature of the use to a different use. The surveyed noise levels on the site and the computer generated site layout are acceptable to EHO as they stand. The existence of consistent noise surveys on this site and adjacent sites over a period of ten years provides a good average figure without the need for further surveys. The adjacent consented depot site realised higher train noises than the application site and yet no further surveys or information were requested. We have addressed the two main areas of concern raised by the EHO, intensification and spread of noise surveys, and trust that our response deals satisfactorily with these issues.

Environmental Health Officer (Environmental Control and Protection) comments on applicant's response

Having given due consideration to the letter from The Edwards Irish Partnership LLP dated 24th January I write in response from the Environmental Protection Department

To order my response I will respond to each relevant paragraph in turn.

Paragraph 2

The calculations and modelling in the noise survey indicate that the proposed layout, with methods of amelioration detailed in section 5.2 sound levels can meet the 'marginal significance' level of BS4142. This indicates that the likelihood of the potential residents complaining because of the sound levels is marginal, not unlikely. The usefulness of the data used in the calculations for this result will be discussed below.

Paragraph 3

Our concerns about the potential for noise from the scrap yard having a significant effect on potential

residents are based on the inadequacies of the information and noise survey that has been provided.

I will address each concern in turn:

- Sound measurements were taken over 2 days. There was no contact with the scrap metal yard operator to ensure that these two days were typical working days or that all of the noisy equipment on site was being used. We therefore have no reason to believe that the sound levels measured show worst case scenario or indeed typical days.
- The assumption based on 'site observations' that external noisy working will take place for 15 minutes in the hour. Section 3.20 of the noise report states: 'From site observations, it would seem likely that such activity levels may occur for perhaps 15 minutes in any hour'. The consultant themselves have placed a number of caveats on the 15 minute assumption and again we have no evidence that this assumption has been confirmed by the operator of the site.

Our concerns, the main relate to noisy work occurring for more than 15 minutes in the hour. Of course the operator may increase the amount of equipment on the site or bring in noisier equipment, which could also increase the sound levels significantly. An increase in noise levels caused by the use of other noisier equipment and/or more prolonged use of the existing equipment on site would, notwithstanding the other comments made here, invalidate the noise assessment and mitigation measured proposed.

The sound levels from the site can vary significantly from day to day. The noise calculations have been based on the large grab handler being approximately 22m from the monitoring point and development. I have discovered that this machine is not stationary and moves all over the site. It may therefore, at times be operating much closer to and along the length of the boundary with the proposed development site.

It has also come to light that the scrap yard has a smaller grab handler has not been accounted for in the noise survey. Lorries delivering metal to the site may sometimes tip out a large skip of 10-15tonnes of metal creating noise and vibrations.

Needless to say these circumstances have not been included in or assessed by the acoustic report. A moving noise source is likely to significantly reduce the screening effect of block to the western edge of the site.

- Figures 4, 5 and 6 of the noise report show the sound levels recorded during the survey. BS4142 uses average sound levels which has the effect of smoothing out the noisier events. The green line on the graphs show the maximum noise level recorded.
 - Figure 4 shows night time noise and is included to illustrate sound levels attributed to night time trains. However there is a peak between 08:30 and 09:00 in the morning which showed the maximum noise level went up to 90dB. There is no annotation to show what caused this peak. It may have been caused by operations at the scrap metal yard.
 - Figure 5 shows daytime noise levels on 20th December. There is a peak between 10:40 and 10:45, marked as 'use of grab handler,' which goes over 80dB, the sound levels is close to 80dB for around 5 minutes. There is a peak between 11:20 and 11:25 which reaches approximately 78dB which is not labelled. Train movements are marked and appear to peak at or below 70dB, but this peak has not been labelled. It is assumed in absence of evidence to the contrary this noise was from the scrap metal yard. Sudden noises like this could have a significant effect on residents of the proposed properties.

This graph shows results from approximately 10:40-11:35, less than 1 hour. There is

no record of the noise for the start of the day or afternoon. This graph was not representative of a full operational day at the scrap yard.

- Figure 6 shows results from just before 10:00 to approximately 18:00 on 6th January 2012. There is no record for the sound levels at the start of the day. If we look at the maximum sound levels we can see two of the peaks have been marked. The 'use of the grab handler' for 5 minutes showing sound levels over 80dB. Within the same hour metal loading/unloading for 9 minutes peaking at nearly 90dB. These 2 activities, within the same hour amount to 14 minutes in this hour of sound levels of approximately 80dB. It would seem reasonable to assume that this sort of activity, and these levels of noise, could be a frequent occurrence.

Through the remaining 6 hours of the noise survey there are a further 6 peaks over 80dB which have not been labelled. Two peaks which reach approximately 70dB are labelled as 'High Speed Train.' Due to the difference in sound levels it is reasonable to assume that the 6 unlabelled peaks are not train movements but are likely to be noisy activities from the scrap metal yard. Sudden very loud noises like this are likely to have a significant effect on potential residents.

The scale of the submitted graphs makes it difficult to interpret the data accurately. We would like the data presented in hourly graphs.

A number of letters of representation submitted by nearby residents support our concerns that the noise measurements do not adequately represent the noise from the scrap metal yard.

Paragraph 4

Historic noise reports

The applicant continues to refer to historical noise surveys to back up the findings of this current noise survey. If the applicant wishes to rely on these reports to support his application, they must be provided in evidence in order that they may be considered in the context of the application

I note the survey conducted in connection with the site to the East of the proposed development which was submitted with application E/09/1206/REM for houses behind the station car park. If this survey is one that the applicant refers to I can confirm that it does not support the findings of the current noise assessment for a number of reasons:

- The survey location was 125m to the east of the survey location for this report, and approximately 115m further away from the scrap yard than the nearest properties will be in this proposal.
- The scrap yard was not mentioned as a noise source in this noise survey, the focus was on the trains.
- In a similar trend to the current noise survey it appears that no contact was made with the scrap metal yard to check that they operating as normal on those days, they may not have been operating at all.

Paragraph 5

We are yet to see evidence that scrap yard activities have been broadly consistent over time. In regards to historical complaints we have received complaints from 3 separate households since 2008. One of the households complained on 2 separate occasions. The complaints who contacted us about noise from the site are at least twice as far away from the operational area of the scrap metal yard that the nearest residents proposed here.

Paragraph 6

This department does not consider the report based on surveys carried out on 2 days as representative. Particularly as we have no evidence that the operator of the site has confirmed their operations at the time were typical. The survey on one of these days was carried out for less than an hour. The surveys did not start until approximately 10am whereas the scrap yard is permitted to commence scrap metal conversion at 8am 6 days a week.

Paragraph 7

We are yet to see the historical noise reports or the reasoned conclusions based on their findings. However, as the applicant states that the surveys were for adjacent sites, not this site so their findings and recommendations were likely to have been different.

In addition to the comments above I have spent further time studying the noise assessment and documents that were submitted at the pre application stage. Table VIII shows estimated façade levels due to scrap yard activity. This table does not show the estimated levels for the western façade of block 11-14, the closest façade to the scrap yard. In the pre application information the estimated façade level at 1st floor level height was 62.6dB.

While referring to the floor plans it can be seen that the only window on this façade will be the bathroom window, however, there is no mention of this window being sealed. If this window is opened it will only provide around 10dB reduction in sound levels. The average sound level experienced inside the property through could be around 52dB. I say average; there would be peaks much higher than this. At the north gable end of this block there are windows leading on to an open plan kitchen/living room. On the south gable end there is a protruding bay style window on the ground and first floor leading in to a dining/living room.

The windows on the north and south gable ends would obliquely overlook the scrap yard and be much less protected than those windows facing away from the scrap yard. Their exposure to noise, and the potential route for noise break in they create, is not assessed in the acoustic report. These windows would not receive much if any screening protection from the building; particularly as we are now aware that the plant at the scrap yard can and does move around the site. Should the windows be opened they would only provide around 10 dB reduction in sound levels and we would therefore expect noise levels within those habitable spaces to be above the recommended internal noise levels when the scrap yard is in operation. BS8233 and the World Health Organisation recommend that sound levels from anonymous noise sources in habitable rooms should be below 40dB for a reasonable level, or 30dB for good. This is the recommendations for anonymous noise sources. The noise generated by the scrap yard operations is far from anonymous.

Should the potential residents wish to complain to this department about noise from the scrap yard we would have a duty to investigate. If we found that the noise was causing a statutory noise nuisance under the Environmental Protection Act 1990 we would be required to take legal enforcement action. This may obviously lead to significant restrictions or changes to the operation of the scrap yard. Alternatively, the business may successfully claim they have used "Best Practicable Means" which would effectively give the scrap yard licence to continue causing a nuisance. We would suggest that the possibility of either of these outcomes should be avoided.

We would also highlight that the NPPF goes to great lengths to highlight the need to promote and protect businesses. Including the following paragraphs which are particularly relevant:

Paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by "... preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution...."

Paragraph 123 which states that Planning policies and decisions should aim to "... recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established...."

It should be noted that the applicant is yet to confirm their proposals for acoustic glazing and associated ventilation for all habitable rooms on the sensitive facades. The consultant sets out in 5.2.17 that suitable double glazing and mechanical ventilation should be installed to reduce noise from the scrap yard. This is also the case for the sensitive facades facing the railway line as set out

in 5.1.5. The consultant recommends that all habitable rooms have acoustic ventilation. The applicant has yet to provide details of this aspect of the application.

Edwards Irish Partnership have submitted a further letter dated 8th February 2013. The following is in response to the points raised in that letter. The applicant has commented on our concern about intensification of use of the site beyond that discussed within the acoustic report. Before commenting further I would highlight that we do not accept that there is sufficient evidence to demonstrate that the acoustic report is representative of the operations on the scrap yard site for the reasons outlined elsewhere in these comments.

Firstly, The operator of the scrap yard would, under his existing planning approval, be perfectly entitled to operate the site and equipment continuously during their working day. There are no restrictions in the planning approval preventing them from doing so.

Secondly, it's generally accepted that the average normal business will operate as efficiently and consistently as possible. In our view the assumption that the existing scrap yard operator will only operate for 15 minutes in the hour highlights that the intensification of this the current use, in terms of its operating time, is reasonably foreseeable.

It is also reasonably foreseeable that the site might change hands and be operated by someone else with, for instance, different equipment, different workloads, more prolonged working hours etc. Any suggestion that we should ignore the reasonably foreseeable and perfectly legal intensification of use of the scrap yard is unreasonable and wrong.

The Environmental Protection team has received no evidence to cause a change in our recommendation that this application is refused.

Environmental Health Officer (Environmental Control and Protection) comments on amended plans

I understand that the applicant will not be submitting any further noise data regarding this proposed development and that it is hoped that the case will be heard at committee on 4th April.

I therefore attach details of my visit to the site on 12th February when an assessment was made of some of the noise from the scrap yard. The report backs up comments that have been made by this department in this and previous responses about this application.

The detailed comments made on my response dated 15th February still stand. In summary the main points were:

- The noise survey and submitted assessment do not reflect the noise levels produced by activities at the site.
 - We do not agree with the assumption that noisy work takes place for around 15 minutes in the hour. The report of my visit on 12 February 2013 attached here clearly demonstrates that assumption is incorrect.
 - The grab handler on site is on tracks and therefore moves around the site, making the calculations based on noise measurements from one point unrepresentative.
 - The fact that the grab handler can move means it is likely that the screening effect of block 11-14 will be significantly reduced.
 - The small grab handler and lorries delivering skips of metal do not appear to have been considered in the noise assessment.
 - The assessment does not accurately reflect the impact on potential residents of the peaks in maximum sound levels emanating from the scrap metal yard.
 - Noise survey was carried out over 2 days. On one of these days recordings were made for less than an hour. The owner of the scrap yard was not contacted to make sure that these were typical working days; they may have been very quiet days. They were both in the winter, when activities at the site are likely to be reduced due to wet weather and poor ground conditions.

- *Using figures supplied by the noise consultant it can be seen that it is likely sound levels inside the block 11-14 will not meet levels set out by British Standards and by the World Health Organisation.*
- *Notwithstanding the points above it is reasonably foreseeable that operations at the site may increase in terms of noisy equipment or the amount of time that noisy equipment at this site is used. For clarity we are referring to the perfectly legal increases in use under the scrap yards existing planning approval. Such increases would clearly invalidate the findings of the acoustic report. During a recent conversation with Mr Black of Pewsey Metal he confirmed that he was currently looking to bring in more business to maintain economic viability of the company.*

EHO Assessment of noise from Blacks Scrap Metal Yard 12th February 2013

On 12 February 2013 I visited the development site to make an assessment of noise from the site. I arrived at 8:30am and parked on the road. At 08:47 vehicle noise was heard coming from the scrap metal site. I left my car and discovered that the large "Grab handler" had been turned on. I walked on to the development site - to the location indicated by the red "X" in Figure 1 below, and set up a sound level meter to measure the levels of noise coming from the scrap yard. Between 08:48 and 09:03 the engine was left idling. At 09:03 the grab handler began operating. It was picking up metal, rotating, and depositing the metal in another location, it continued to do so until 09:27. I continued to take measurements of the general environmental noise in this location until 10:05. I have included a table of data, Figure 2; a time history of the average (LAeq dB) measured noise levels during my visit Figure 3; and a time history of the maximum (LAmx dB) sound levels while the grab handler was in operation, Figure 4.

My observations during the visit were that the operation of the grab handler was a very significant noise source. During its operation the noise from the grab handler was by far the most significant noise source in this area and the other sources of environmental noise were insignificant in comparison. In particular the picking up of the metal, rotation of the grab handler cab, and the dropping of the metal were all clear and identifiable noise features.

In my opinion locating any residential properties in such close proximity to the scrap yard, and in particular the grab handler, is likely to lead to the occupants of those properties being seriously and adversely affected.

The noise data in Figures 2 and 3 speak for themselves and illustrate that the operation of the grab handler leads to a very significant increase in noise. They show a dramatic and very significant increase in environmental noise on the development site when the grab handler is in operation. The noise level (LAeq) caused by the operation of the grab handler is significantly over and above the background noise levels in its absence.

The difference in equivalent continuous noise level (LAeq) between the operation of the grab handler and its absence is 17.3dBA. The difference between the equivalent continuous noise level (LAeq) and the background noise level (LA90) is 29.2dBA. To put this in perspective, the operation of the grab handler is, in terms of its subjective loudness, around three times as loud as the general background noise levels in this area.

The maximum noise levels (LAmx) are also very important in assessing the impact of a noise. As you can see from the time history below during the operation of the grab handler there are frequent, very high, sudden peaks in noise level. From my observations these increases in were caused by the grab handler dropping material. On one occasion this peak in noise level reached 91dBA and peaks were regularly in excess of 80dBA. My on site observations when these peaks occurred were that the noise level was so high they gave the impression that the ground was shaking. In my opinion these frequent, sudden very high sound level would startle some residents.

The measurement location was representative of plot 1 and is further away from the noise sources than the nearest proposed dwellings plots 11-14. I would highlight that the noise assessment assumed that the grab handler would not be in use for more than 15 minutes in the hour and that the grab handler is a static noise source. My observations on site illustrate that both these assumptions are incorrect and calls into question the conclusions of the acoustic report and in particular the BS4142 assessment.

As you will see from this report I measured a noise level of 66 dB Laeq on the development site, at the location indicated on Figure 1, when the grab handler was in operation. The noise report (see para 5.2.7) and noise model appears to have used a source noise level of between 60 and 65 dBA at the boundary at survey position SP1 (seen on Page 24 of the noise assessment). When taking into account that our measurement point was significantly further from the noise source and that a barrier along the boundary was providing some acoustic screening during our measurements it would appear the source noise levels used in the noise assessment are a significant underestimation.

In late June 2013 a report of the survey and assessment of noise emissions experienced on the site was submitted to the Council, on which a further round of consultations and notifications was undertaken. Members are encouraged to view this report, which has been uploaded to the Council's planning website pages for this application, and is named "Noise Survey June 2013".

Environmental Health Officer (Environmental Control and Protection) comments on additional noise survey submission

The submitted assessment had been given all due consideration. However, the information supplied does not enable us to alter our recommendation that this application is refused.

The assessment has failed to allay our concerns that future residents of the proposed dwellings will be subjected to equivalent continuous and peak noise levels that will cause a loss of amenity and potentially a statutory noise nuisance. In particular we are concerned that sudden, very loud incidents of noise from the scrap yard are likely to be highly intrusive at residential properties that will be in such close proximity to this industrial site.

I will list our main concerns with the noise assessment as they appear through the document:

3.2.5 I believe there is a typing error here; it is important that this information is accurate. This section states that the sound level meter (SLM) was in position S2. I believe it should say S1.

3.2.6 Unfortunately the scale of the axis in Figures 7 and 8 mean that they are very difficult to analyse. It is impossible to compare the peaks with events described in Appendix C. In my comments dated 15/02/2013 we requested data in hourly graphs. Notwithstanding this these graphs show sustained periods where the maximum sound levels are over 90dB. These maximum sound levels are of great concern they will be detrimental to amenity and potential residents using outside space will find these sound levels highly intrusive.

3.2.7 and 3.2.10 There are no details in the report as to how the measured levels were corrected to remove the contribution of passing trains.

3.2.8 It is stated that the Client expressed concern that activity in the scrap yard may have been artificially high due to 'grandstanding.' While it is accepted that the operator would have been able to see that monitoring was being carried there is no evidence to show that the activity was not 'normal activity.' Because of the "grandstanding" concerns further noise measurements were then taken at S4 on the boundary of the Old Hospital site. We do not accept that noise measurements from position S4 are representative of the development site. The 'operational area' of the scrap yard has a breeze block wall of over 6ft in height on the boundary with the railway. There is no line of sight between this measurement location and activities taking place at or near ground level. These measurement results will therefore have been affected by the acoustic screening of the boundary

wall.

BS5228-1:2009 Code of practice for noise and vibration control on construction and open sites states: "In the absence of spectral data, as a working approximation, if there is a barrier or other topographic feature between the source and the receiving position, assume an approximate attenuation of 5 dB when the top of the plant is just visible to the receiver over the noise barrier, and of 10 dB when the noise screen completely hides the sources from the receiver."

If it's assumed that the boundary wall provided this level of reduction then the noise measurements taken at S1 and S4 would appear to be entirely consistent with one another- i.e. 68dBA.

Notwithstanding this we consider that the measurements from location S1 should be used for calculations through the rest of the report. They are representative of the noise levels at the development and even if they do illustrate a worst case scenario, residents will have to live there 365 days a year and are therefore likely to experience worst case scenario noise levels.

3.2.10 The graphs in Figures 9 and 10 are impossible to read accurately. However, they do show a considerable number of peaks in sound level over 90dB. Future residents are likely to find these peak impulsive noise levels highly intrusive and startling.

5.1.5 While this section sets out options for ventilation of rooms that will need to have windows closed to maintain acoustic integrity of the façade there is no commitment to one of these options. If the residents were to open these windows and then complain of noise nuisance we would have to investigate and take appropriate action as necessary. It is therefore likely that on sensitive facades windows will need to be sealed. There is no indication in this section that the options listed will be sufficient to provide sufficiently rapid means of ventilation to replace openable windows. This would be essential in warm weather conditions.

5.2.4 The model illustrated in Figure 11 is based on two noise sources in stationary positions. Both the grab handler and forklift are mobile and as such will operate in different parts of the site. In addition to this the observations listed in Appendix C show a number of different and significant noise sources on the site. For example the repeated and frequent use of a chain saw to cut metal. The location of these other activities on the site are not addressed in the noise report and are instead assumed to be taking place from one or both of the two stationary positions used in the model.

The model shows the expected sound levels at certain facades, if noise from the site is coming from the positions assumed in the model. These positions are directly behind block 11-14 that is designed to provide some attenuation of noise. Block 11-14 will be ineffective as a barrier to noise if the forklift or grab handler move or if noise is from one of the other activities on the site.

5.2.8 Table XII. This table does not give sound levels of the western, northern or southern facades of block 11-14. The northern and southern facades have windows that lead on to open plan living spaces and are very close to the boundary with the scrap yard. In addition to this; while there is an estimate of the internal sound levels block 11-14 at ground level there is no estimate of the internal sound levels at 1st floor level. The 1st floor will not be protected by the 2 ½ m fence along the boundary.

5.2.14 Based on a source sound level of 63dB and the calculations in this report average internal sound levels in the rooms listed in Table XII will be between 30-40dB. However we do not accept that the source sound level of 63dB measured from the old hospital site is representative. The statement in this section does not take into account the maximum sound levels that are shown in Figures 5-10. These very loud noises are effectively smoothed out by using the equivalent continuous sound level.

5.2.18 The results of the BS4142 assessment are shown in Table XIII. The report concludes that "...there is a small potential risk of complaint..." from parts of the site. We do not agree with this assessment. BS4142 states that a rating level of +5dB is of marginal significance and +10dB indicates complaints are likely. There are a number of rating noise levels in the upper region of the

+5dB to + 10dB range and we think these results have not been given the significance they deserve in the report.

We would add here that although complaints from future residents and action being taken against the scrap yard for “statutory nuisance”, is a risk we are concerned about our principal concern here is the loss of amenity for the future residents who will have to live with the noise from the scrap yard.

In our view the results of the BS4142 assessment present clear evidence that the future residents will suffer a loss of amenity and disruption caused by the operation of the scrap yard.

For clarity we would highlight here that source noise levels of 63dBA have been used as a basis for the BS4142 assessment. We dispute, for the reasons discussed in this response, that 63dBA is the appropriate source noise level to have used in the assessment. Its quiet clear that if the 68dBA noise level had been used for the source noise level then the rating levels for various parts of the site would have been +10dB for various parts of the site and that complaints would be likely.

5.2.21 The houses on the old hospital site have some protection from noise from the scrap yard. The facades of these properties approximately 35m from the boundary of the scrap yard, a number of proposed properties will be within this distance, the closest façade being 4m from the current boundary. There is also the breezeblock wall on the scrap yard site, a 3m high fence, vegetated zone of around 4m and then a 6ft garden fence. All of these factors will reduce the effect that noise from the scrap yard has on the residents using their properties on the old hospital site.

I have been asked to look at some comments submitted by a local resident, Mr Hughes on 10th July. I can confirm that there is nothing in the comments which cause us to change or amend our comments or recommendations.

To summarise; the noise assessment has failed to show that noise levels produced by the scrap yard can be satisfactorily mitigated. The report makes a number of unsupported assumptions which have the effect of under estimating the noise impact of the scrap yard on the development site. We therefore maintain our recommendation that this planning application is refused.

8. Publicity

The application was advertised by site notice and notification letter to nearby addresses. Notification of the receipt of amended plans was sent to neighbours and those who had commented on the initial plans. Further notification of the receipt of the additional noise report was sent to neighbours.

In summary, comments received from neighbours and other members of the public include the following points:

- Planning permission for development on this site has been refused many times
- The development would cause additional traffic problems along this narrow route
- Wilcot Road is supposed to be one way at this point but this restriction is being ignored
- On-street parking provision would be lost
- Large vehicles exiting the site would increase the risk of accidents, both with other vehicles and with pedestrians using the footway opposite the site (which is level with the road)
- The scrap yard is too noisy to live close to, and garden areas will be unusable
- New homes close to the established scrap yard would prompt complaints that could restrict the business
- The noise survey isn't accurate: the scrap yard is noisier than indicated, and there are numerous inaccuracies in the noise report.
- The boundary between the Crown Public House and the plot no. 1 house is wrongly shown (it means that house may be built on the Crown Inn's land)
- This development would be followed by a proposal for the builder's yard, then the railway car park adding more traffic to Wilcot Road

- New residents could complain about the noise from the railway line, threatening the service
- The ecological survey was carried out after the site had been cleared anyway – perhaps if carried out before all the trees were removed the outcome would be different
- Many residences close to the site had rat infestations as a result of the clearance of its vegetation
- The clearance of the land and its development does not accord with the idea of a conservation area
- Bats and common lizards are present on the site, and many birds nest in the hedge
- The mature hedgerow along Wilcot Road is a valuable part of the natural street scene
- Flash flooding has affected properties in Wilcot Road – the proposal will do nothing to help this
- Rear windows on plots 2 and 3 will overlook existing residences on Wilcot Road
- Permission given for a garage and office above will overlook plot 1
- Proposals for trees proposed to be planted on or near boundaries should be changed to stop branches overhanging/roots disrupting other property
- A modern estate would look out of place in the variety of old buildings along Wilcot Road
- No objection to the principle of the development, but issues of parking, landscaping etc. are important.
- Re-iteration of the points made on original and first amendment proposals.

9. Planning Considerations

Sustainable location

The site is considered to stand in a sustainable location, within the bounds of this reasonably well-serviced settlement, enjoying commercial, social and employment provision within walking distance. Links by public transport are also good. The proposal shows an efficient use of the plot in terms of numbers of homes, and the layout is considered to create a reasonable sense of place, with the scale, form and presentation of building units set out in an acceptable design.

a) Noise issues

The principal constraint to residential development on this site is its capacity to deal with the noise emissions from adjoining land uses. The railway to the north of the site is a main line into London, with Pewsey Station performing an important role as a stop on this cross-country route. The Crown Public House, fronting Wilcot Road, has a small beer garden that would border the garden of plot 2. Of greater significance, however, is the scrap yard to the west, where operations can cause noise levels that would be unacceptable without mitigation. The question in this case is whether the data submitted, concerning the levels of noise emitted from uses neighbouring the site, is accurate, relevant and comprehensive, and whether the measures to reduce the levels of disturbance proffered (in the design and orientation of the buildings) would adequately mitigate the likely disturbance. The evidence and assessment of this issue of both the applicant and of the Environmental Health Officer is set out in section 7 above. It is considered that, notwithstanding the points made by the agent relating to levels of operation historically, the ability of the Council to control activities on the scrap yard site, and the design measures incorporated into the layout and construction of the buildings, there remains a likelihood of inadequate levels of residential amenity being provided for the new residents, and little guarantee of safeguarding even that level of amenity, without imposing a restriction on the business activities of these enterprises.

b) Highways and parking

The level of additional traffic that the scheme would generate is considered to be acceptable for the local highway network to absorb, provided the revisions to the highway and traffic management arrangements are secured. The scheme incorporates new parking which is considered to improve on the situation presently. Should further applications for permission be forthcoming, to develop other plots adjoining and to use the same access as now proposed, a

further assessment of the issues will need to be undertaken. In principle, there is no objection to the development, therefore, on highway grounds, although permission should be refused if there is no accompanying agreement to oblige the applicant to secure necessary highway works.

c) Grain and density of development

The pattern of development on the south side of Wilcot Road itself is mainly in ribbon form along the street frontage, although there are some strands of development or individual houses set back from this core alignment on the north side of the route. Development to the south, in the C20 estate, has a regular spacing of pairs and terraces of housing, with front gardens, while development further to the west is of much larger modules (school buildings) or conversions of historic structures (Pewsey Workhouse). There is no strict pattern of development to follow among the surrounding built forms, therefore. The density of development within these various patterns is quite high, and the scheme is considered, for the reasons set out in the first part of this section, to be acceptable.

d) Impact on the character, appearance and integrity of heritage assets

The character and appearance of the area has been recognised as of value culturally and aesthetically in the designation of part of Wilcot Road as a Conservation Area. The road frontage of the site falls within this designation. The scale, design and orientation of the proposed house on plot 1 at the entrance to the site is acceptable, given the spacing, size, form and variety of materials and architectural styles that are evident along the northern side of Wilcot Road. The loss of the hedge would not preserve the character or appearance of this heritage asset, but the proposal would replace this green edge with another of mixed native species, at least for part of the street frontage, and would retain the field maple in the south east corner of the site.

The potential archaeological importance of the site has been acknowledged, and the identification and recording of any below-ground heritage asset can be secured by condition, as suggested.

e) Trees, landscaping and wildlife habitat

The clearance of the site is indeed regrettable, not because it resulted in the loss of any outstanding tree specimens, but because it altered the habitat on the land before a full investigation of its biodiversity resource could be properly recorded. The measures set out in the ecology report, to safeguard the strip of land along the railway to continue this wildlife corridor, are important. The tree planting shown on the boundary of the rear gardens of plots 9 and 10 with the wildlife corridor are not likely to cause any problem in terms of proximity to the railway line.

f) Contamination issues

Both the Environment Agency and the Council's Public Protection Officer raise no objection to the scheme following the submission of information on the potential for pollutants to be already on the site, or for the development site to become a receptor.

g) Impact on neighbouring amenity

The proposed development would cause no unacceptable overlooking or overshadowing of other residential property. The upper floor rear windows (serving bedrooms) of proposed units 2, 3 and 4 would be a minimum of 11 metres away from the boundaries of adjoining gardens, with no direct aspect into windows of other dwellings on Wilcot Road. The proximity of the proposed house on plot 1 to the boundary of the Crown PH, and to any permitted building on that property, does not warrant the refusal of the scheme.

h) Public recreation facilities

Although there are areas of shared landscaping to the east of the proposed flats building, and

elsewhere around the site, the scheme does not show any reasonable amount of communal garden to satisfy the requirements of policy HC35, with regard to recreational space on new residential developments. Although confirmation has been received that the applicant is willing to enter into an agreement with the Council to make an appropriate financial contribution towards recreational facilities at the new Pewsey Campus (at the Pewsey Vale School, Wilcot Road), in the absence of a signed agreement to this effect the scheme must be considered to be in conflict with policy HC35 of the local plan.

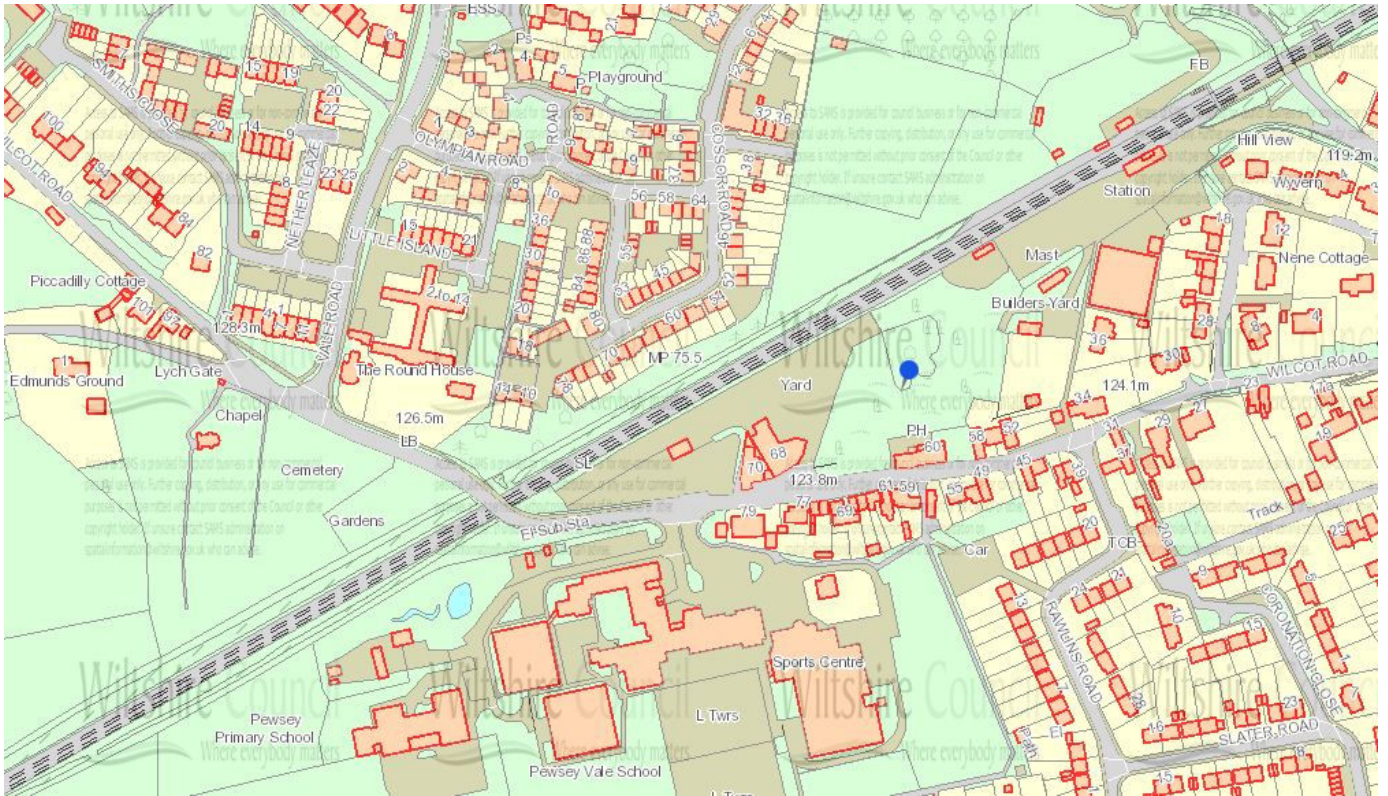
10. Conclusion

This scheme has been subject of pre-application planning advice, and during its assessment as a formal application for planning permission dialogue with the agent has sought to overcome problems identified (highways, parking, landscaping and open space) with the proposal. These discussions have resulted in the amended scheme now before committee. Although subject of much investigation and analysis, no resolution has been reached to the problem of placing noise sensitive development next to noise-emitting land-uses, and so for the reasons set out in this report, it is concluded that planning permission should not be granted for this proposal.

RECOMMENDATION

That planning permission be **REFUSED** for the following reasons:

1. The proposed development would be located within close proximity to established sources of noise that would be likely to cause unacceptable levels of disturbance to the occupiers of the units. The information provided has not demonstrated that there would be no statutory noise nuisance experienced by the new residents. The impact of the existing neighbouring land uses, particularly in terms of noise and disturbance on the residential use of the site would be likely to represent an incompatible mix of land uses, resulting in poor levels of residential amenity, contrary to the terms and objectives of Policy PD1 of the Kennet Local Plan 2011. Furthermore, the introduction of a noise sensitive development on the site would be likely to place unreasonable restrictions on the continuance of the established businesses nearby, in conflict with the advice contained in the National Planning Policy Framework 2012. The proposal is therefore considered not to accord with national and local planning policy and guidance.
2. The proposed development includes no mechanism for securing the provision of a suitable amount and type of public recreational facilities on or near the site to serve the increased population to be housed in the development. The proposal therefore conflicts with the requirements of policy HC35 of the Kennet Local Plan 2011 and advice contained in the National Planning Policy Framework 2012.
3. The proposed development includes no mechanism for securing the provision of works to the highway and traffic management arrangements that would be necessary to ensure the safe and convenient integration of the development into the local highway network. The proposal therefore conflicts with the requirements of policy PD1 of the Kennet Local Plan 2011 and advice contained in the National Planning Policy Framework 2012.



Appendices:

Background Documents Used in the Preparation of this Report:

- History files
- National Planning Policy Framework 2012
- Kennet Local Plan 2011
- Conservation Area Statement for Wilcot Road

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REPORT TO THE EASTERN AREA PLANNING COMMITTEE Report No. 3

Date of Meeting	1 st August 2013
Application Number	E/2013/0122/FUL
Site Address	New Inn, Winterbourne Monkton, Swindon SN4 9NW
Proposal	Extensions and alterations to public house and alterations to outbuilding to provide additional Bed and Breakfast accommodation.
Applicant	Mr Martin Coombes
Town/Parish Council	WINTERBOURNE MONKTON
Grid Ref	409964 172285
Type of application	Full Planning
Case Officer	Victoria Cains

Reason for the application being considered by Committee

The local division member, Cllr Milton, has requested that this application be determined by the Planning Committee.

1. Purpose of Report

To consider the recommendation that the application be approved subject to conditions.

2. Report Summary

The main issue to consider is whether the extensions and alterations to the main public house and outbuilding are acceptable in terms of visual amenity and neighbour amenity.

3. Site Description

The application relates to the New Inn public house and its outbuilding located within the village of Winterbourne Monkton. The application site lies within the North Wessex Downs Area of Outstanding Natural Beauty (AONB). The site can be located by taking a left hand turning towards the village (signposted) when heading in a northerly direction on the A4361 towards Swindon from Avebury. The New Inn can be found approximately 0.16 miles (260 metres) on the left hand side of the road.

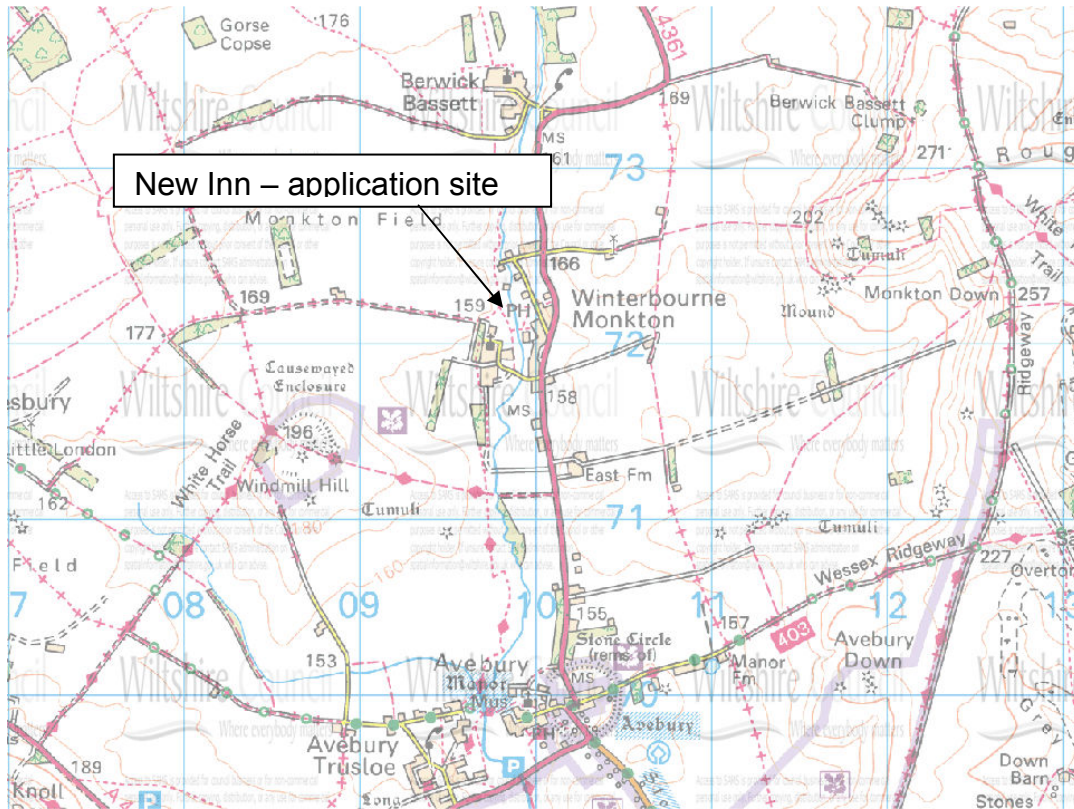


Plate 1: Location Plan - application site in relation to Avebury and Winterbourne Monkton (not to scale)

4. Planning History

K/38320	The erection of an extension to public house and annexe to provide additional bar space, new toilets and additional holiday accommodation.
K/15497	Change of use of part of first floor to bed and breakfast rooms
K/12213	Extension to side and rear and conversion of part of living accommodation to restaurant
K/11236	Conversion of outbuildings to provide overnight tourist accommodation (amendments to approved proposals)
K/85/0413/AD	Non-illuminated pub sign
K/84/0054	Extension to public house and change of use of store to function room and improve car park

5. The Proposal

The public house has historically comprised bed and breakfast accommodation within the main building itself (first floor level) as well as within the outbuilding and it is this element of the business that the application relates to. This application seeks extensions and alterations to both the public house and outbuilding to facilitate improved bed and breakfast accommodation. The business is currently closed pending the outcome of this application and whilst internal refurbishment is taking place.

The scheme has been revised during its consideration to show an alternative floor layout for the main public house and amendments to the outbuilding to create a more appropriate design. Concerns were raised to the original plans which appeared to indicate the closure of the public house use. Plans have now been submitted showing the bar and a small alcohol storage area remaining and an email from the agent has been submitted confirming that the public house is to re-open alongside the bed and breakfast accommodation.



Plate 2: Existing elevations of the main public house (not to scale)



Plate 3: Proposed elevations of main public house (not to scale)

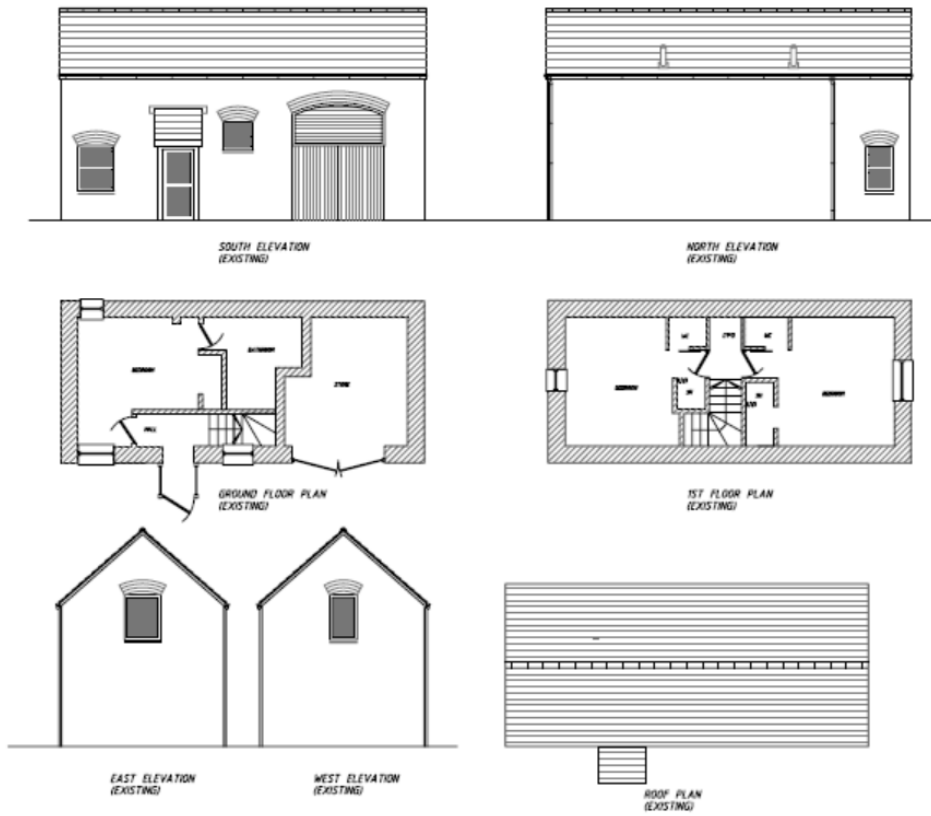


Plate 4: Existing elevations and floorplans of the outbuilding

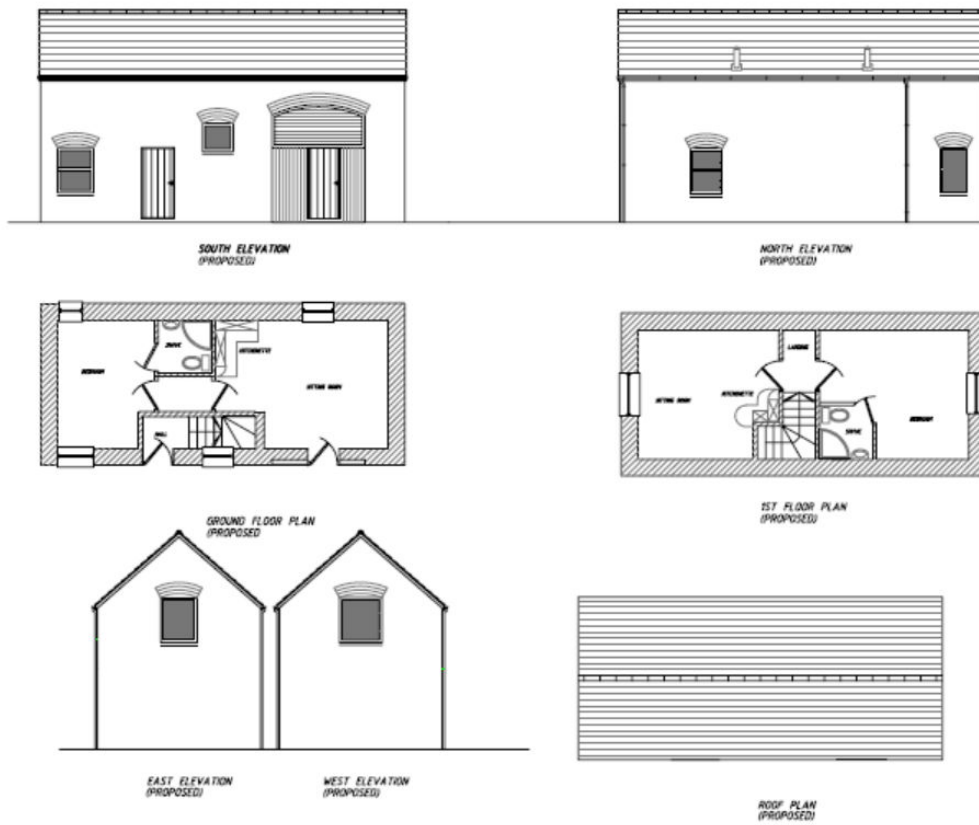


Plate 5: Proposed elevations and floorplans of the outbuilding

6. Planning Policy

The development plan for the area comprises the Kennet Local Plan 2011. The key local plan policy is PD1 "Development and Design". The National Planning Policy Framework (NPPF) is also relevant, particularly section 7 regarding design and amenity.

7. Consultations

Winterbourne Monkton & Berwick Bassett Parish Council: objects on the following grounds:

"The residents of Winterbourne Monkton and Berwick Bassett value greatly having a viable pub in the village. In the summer of 2012 a survey of the households occupied by permanent residents shows 63 in favour or retaining the pub as a meeting place out of a total of 65.

This is a very social and supportive community - when the pub was open it was used for monthly meetings of the Village Club, Quiz Nights, Crib and Darts evenings, Fish 'n' Chip lunches, Cabbage Sunday (a big charity event), as well as private parties, celebrations and Guy Fawkes night. Our only assets are a pub and a church - there is no village or church hall, or anything else which could be used for social gatherings. Therefore the Parish Council is of the opinion that this community facility must be retained in order for the spirit of the village to continue to thrive... Nowhere in the proposal is there any reference to the re-opening of the Public House. With all these contradictions and lack of clarity, the Parish Council believes that this proposal will lead to the permanent closure of the Public House, so valued as a meeting place by people in these villages and surrounding area and therefore oppose this plan.

"Other matters that were raised relating to the planning application were:

- Section 11- Foul sewage. The existing septic tank does not function properly and the owner states that the means of disposal of foul sewage is unknown. There needs to be a proper plan."

8. Publicity

16 Letters from local residents have been received following the consultation on the original plans. A large number of objections relate to the loss of the public house and refer to concerns about the previous running of the pub and the fact that the original plans submitted showed the loss of the bar and cellar. The comments refer to the public house as a valuable community facility which was in regular use for club meetings, and other functions.

9. Planning Considerations

The main planning considerations relate to the design of the proposals as well as their impact upon the neighbouring properties. A lot of concern has been raised to the loss of the public house and that this is in fact a change of use application. This has been largely based upon the proposed floor plans as originally submitted which seemed to indicate the loss of the public house with the deletion of the bar area and beer cellar. This has been thoroughly investigated by the case officer with a secondary internal site visit carried out. After detailed discussions with the agent, amended plans have been received showing the public house features remaining. The intention of the applicant is to upgrade the bed and breakfast accommodation so that this can financially support the running of the public house. The agent stated in an email: "I have to re-iterate that the application is for the renovation of the private and B&B accommodation... It is not intended to open as purely B&B, but as stated the B&B is an essential part of the business and has to be modernised to meet current standards expected by tourists. The pub will re-open but the site is likely to be subject to further applications to cement the future of the business as a whole".

Therefore, as it currently stands, the intention is to re-open the public house and the purpose of this application is to assess the extensions to the public house and alterations to the outbuilding only. The main issues to therefore assess are (a) design and (b) neighbour impact.



Plates 6 & 7: Front elevations of the public house and outbuilding.



Plate 8: Rear elevation of public house and outbuilding

In terms of design, the extensions to the main public house are considered visually acceptable. The building, whilst retaining an attractive traditional red brick public house frontage, has been incrementally extended to the rear. The proposed extensions will therefore help to consolidate the rear extensions into a more cohesive design and appearance. Furthermore, they are in keeping with the scale and appearance of the building and will cause no wider harm to the streetscene or character and appearance of the AONB. Likewise, the amended proposals to the outbuilding show a sympathetic scheme which will help to ensure the retention of some of the characteristic features of the building whilst upgrading its use for visitor accommodation. Subject to appropriate conditions regarding materials, your officers therefore consider the design of the scheme acceptable and in accordance with policy PD1 of the local plan.

In respect of neighbour amenity, the public house and outbuildings are sited a sufficient distance from all neighbouring properties so as not to give rise to an adverse impact upon the reasonable living conditions of the occupiers of the neighbouring properties.

The Parish Council also raised the matter of the foul sewage. This is an existing matter with the public house and it is not considered that the alterations/extensions to the existing uses which do not significantly alter the situation would materially impact upon the foul sewage. It would therefore be unreasonable to refuse the scheme for this reason and unnecessary as this matter will be dealt with through building regulations.

10. Conclusion

Whilst your officers understand the concerns raised by the local residents in respect of the loss of the public house, as it currently stands no change of use has taken place and the agent has stated in writing that the public house is to re-open alongside the bed and breakfast accommodation. Therefore, in conclusion, it is considered that the proposed extension and alterations to the outbuilding are acceptable in both visual and amenity terms. Members are therefore recommended to approve the application subject to the relevant conditions.

RECOMMENDATION

That planning permission be **GRANTED** subject to the following conditions:

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

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

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

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

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

- Location map & block plan, received on 15th March 2013;
- Existing floor plans, received on 4th January 2013;
- Existing elevations - main building; received on 29th January 2013;
- Proposed floor plans - main building; received on 15th March 2013;
- Proposed elevations - main building, received on 15th March 2013;
- Annex: Existing elevations, floor plans & roof plans, received on 15th March 2013, and
- Annex: Proposed elevations, floor plans & roof plans, received on the 15th March 2013.

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



Date of Meeting	1 st August 2013
Application Number	E/2013/0238/FUL
Site Address	Land adjacent Chute Forest Cottage, Chute Cadley, Andover SP11 9EB
Proposal	Erection of a Dwelling
Applicant	Mr John Burrows
Town/Parish Council	CHUTE FOREST
Grid Ref	423150 169263
Type of application	Full Planning
Case Officer	Rachel Yeomans

Reason for the application being considered by Committee

This application has been brought to committee at the request of the division member, Cllr Howard.

1. Purpose of Report

To consider the officer recommendation that the proposal be granted planning permission.

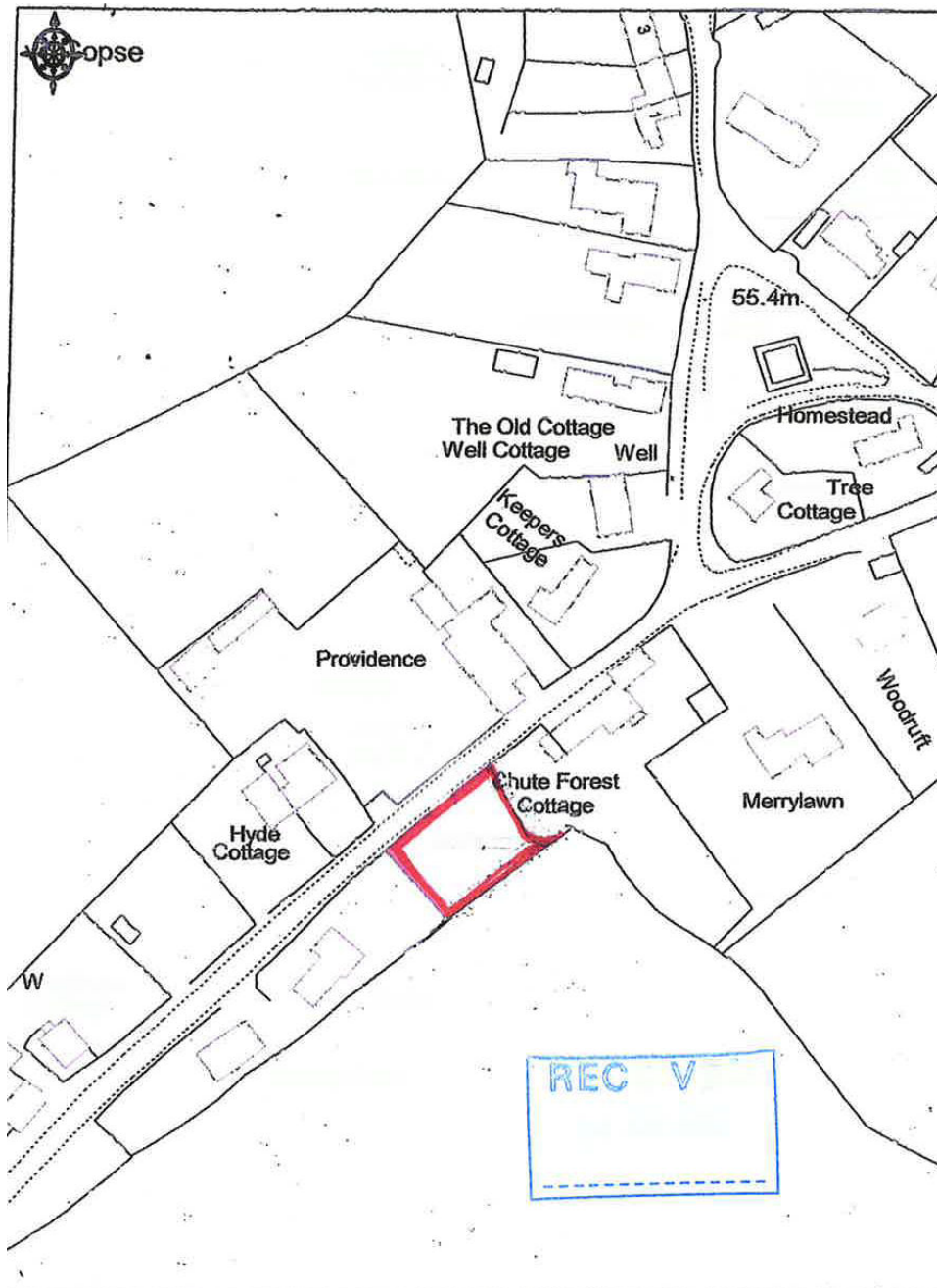
2. Report Summary

The key issues for consideration are:

- The principle of residential development in this location;
- Whether the proposals will preserve the setting of listed buildings and other non-designated heritage assets;
- Whether the proposal would preserve or enhance the character or appearance of the conservation area (including a broadly neutral impact);
- Impact on visual amenity, including whether the proposal represents good quality design, impact on the AONB landscape and trees;
- Highway safety;
- Impact on residential amenity.

3. Site Description

The application site lies on the southern side of Chute Cadley. The site can be accessed from Ludgershall by proceeding east along the A342 towards Andover. Before leaving Ludgershall and immediately before the sign for Faberstown, take the left hand turning signed Biddesden and Chute into Biddesden Lane. Proceed along this lane until the T junction and turn left. Keep following this road into Lower Chute. At the T junction, turn right (past the Hatchett Inn) and take the next left towards Chute Cadley. The application site can be found on the right hand side before the road splits. The site slopes upwards from the roadside to the southeast.



Site Location Plan

4. Planning History

E/2011/1627/FUL – Planning permission was refused for a new dwelling on the site on 25th January 2012 for the following reasons:

1. The proposed dwelling, by virtue of its scale, bulk, orientation and design would be cramped and out of keeping with the area and would thus fail to preserve or enhance the character and appearance of the conservation area. Furthermore, the scale of the dwelling, its proximity to the boundary and orientation within the site would be unneighbourly for occupiers of Chute Forest Cottage. The proposal is therefore contrary to policies PD1 and HC24 of the adopted Kennet Local Plan 2011, Planning Policy Statement 1: Delivering Sustainable Development and Planning Policy Statement 5: Planning for the Historic Environment.
2. The proposal makes inadequate provision for visibility splays at the site access and the local planning authority is not satisfied that the necessary visibility splays can be achieved without detriment to the character and appearance of this part of the conservation area and without use of third party land outside of the application site. The proposal is therefore contrary to policies PD1 and HC24 of the adopted Kennet Local Plan 2011, Planning Policy Statement 1: Delivering Sustainable Development and Planning Policy Statement 5: Planning for the Historic Environment.
3. The siting of the dwelling and its proximity to existing trees and landscape features would give rise to pressure from future occupiers of the dwelling to reduce or fell trees which make a positive contribution to the sylvan character of the area. As such the proposal is contrary to policies PD1 and HC24 of the adopted Kennet Local Plan 2011, Planning Policy Statement 1: Delivering Sustainable Development and Planning Policy Statement 5: Planning for the Historic Environment.

It should be noted that this application proposed a much larger dwelling, tantamount to the appearance of an elongated barn conversion which was intended to be placed diagonally across the site. The dwelling now proposed has been the subject of protracted pre-application discussions in an attempt by the applicants to address the issues as fully as possible.

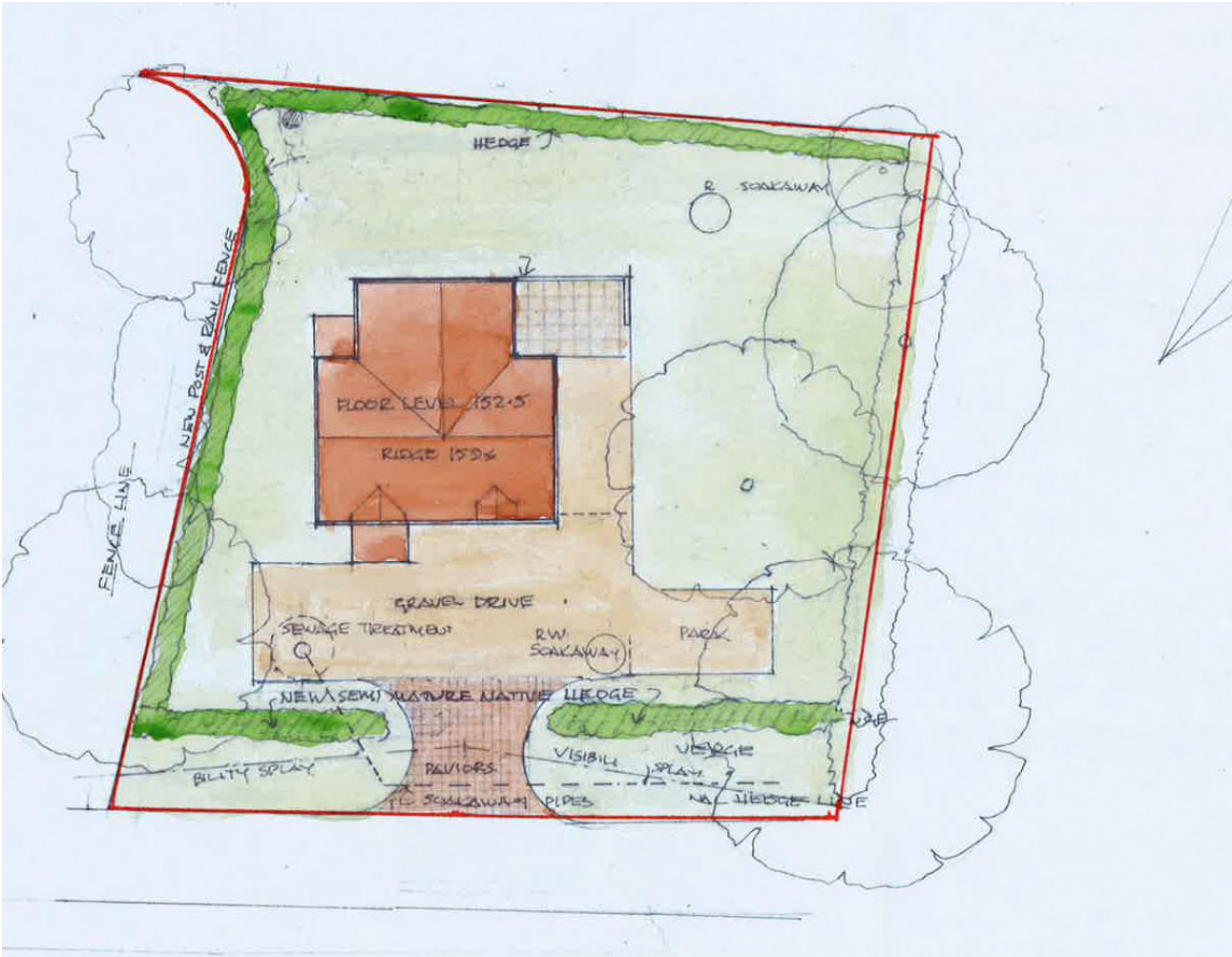
E/09/1030/TCA – The applicants carried out works to trees within the conservation area adjacent to Chute Forest Cottage consisting of the felling of two larch trees, one aspen poplar, and one elder described as dying, along with the re-shaping of two ash trees and one box elder. This application sought to regularise these works which were carried out without the benefit of consent. The Council objected to the felling of the poplar and the unspecified re-shaping of the two ash trees and the box elder however upon appeal the Inspector held that this was acceptable subject to the planting of two modest new multi stemmed birch trees.

K/10493 – Planning permission was refused and an appeal dismissed for a new dwelling on this site in April 1988. A copy of the appeal decision has been uploaded to the Council's website (under the documentation details for the current application) for full viewing. Given the age of this decision and the material planning changes since this time, particularly in respect of the Government's drive for new housing in sustainable locations and the publication of substantial new planning guidance (including the Kennet Local Plan 2011, the National Planning Policy Framework and the emerging Wiltshire Core Strategy, the Conservation Area Statement, Manual for Streets, the Kennet Landscape Conservation Strategy and the Village Design Statement in addition to the Inspector's decision to require only two replacement trees to be planted following site clearance, and other planning decisions nearby) it is considered that such changes must be factored into any decision.

It should also be noted that the larch, holly, maple and two ash in the western hedgerow are covered by a Tree Preservation Order.

5. The Proposal

The application proposes the development of a single detached cottage together with associated driveway, turning and parking areas and landscaping works. Since the application was submitted, the site plan and block plan have been amended to take account of a land ownership concern. In order to accommodate an addition new hedge on the applicant's land, it was suggested the dwelling be moved approximately 1.5 metres further southwest. The amended plan is shown below.



Block Plan



Elevations and Floor Plans of the Proposed Dwelling

6. Planning Policy

The following planning policies are considered of relevance to this proposal:

The National Planning Policy Framework, with particular reference to:

Chapter 6: Delivering a wide choice of high quality homes

Chapter 7: Requiring good design

Chapter 11: Conserving and enhancing the natural environment

Chapter 12: Conserving and enhancing the historic environment

It should be noted that sustainable development is an overarching objective which runs throughout this document.

Policies HC24, PD1, NR6 & NR7 of the adopted Kennet Local Plan 2011 are also applicable.

The Chute Conservation Area Statement, the Village Design Statement for the Chutes, the Kennet Landscape Conservation Strategy, along with the Management Plan for the North Wessex Downs Area of Outstanding Natural Beauty are all material considerations.

The emerging Wiltshire Core Strategy is also a material consideration, but since the Inspector has not yet reported on the Examination in Public which was underway at the time of writing, it cannot therefore be afforded any significant weight. Within this document, Core Policies 1, 2, 26, 57, 58 and 60 are relevant.

7. Consultations

Highways – I attach comments on the revised plan. I am satisfied that providing the hedge is set back as detailed over the entire frontage the available visibility will be satisfactory. Manual for Streets (the newer guidelines) allows visibility at such low-key residential environments to be to the centre-line of the road, which [my colleague] did not make clear in his previous comments. The parallel splay as indicated will achieve this. I think a parallel splay should be provided as it will provide a better situation for the nearby property and good visibility of the access for approaching traffic.

I refer to the above planning application and to the amended plan number 3103/8. I am satisfied that provided the hedge is set back as detailed the available visibility will be satisfactory. I have no highway objections subject to planning conditions which have been incorporated into the recommendation.

Arboricultural Officer - The proposed scheme seems achievable without having a detrimental effect on the character of the site. Landscaping details and information on the re-positioning of the two multi-stemmed birch, required under the Tree Replacement Notice, should be detailed and agreed, although I note that the tree report only refers to one tree.

Services routes/soakaways should be detailed and agreed. The proposed hedging is at 600mm centres at 300mm between rows. This is deemed acceptable for larger stock on some nursery websites, but in my view it could look rather sparse until established, especially if the stock has limited branch structure. We usually ask for hedging at 450 centres, which is approximately 5 plants per metre.

In response to amended plans:

I am of the opinion that the proposed scheme, and in particular the sewage treatment plant, is unlikely to have a detrimental effect of the adjacent trees' long-term health. If the configuration of the pipe work for the sewage plant cannot be reconfigured to pull it out of the RPA of tree No 1, the short section within the RPA should be laid in accordance with National Joint Utilities Guidelines (NJUG 10) & BS 5837:2012.

Building Control Officer – Further to our earlier conversation I can confirm that the use of a package treatment plant and associated soak-away, as shown on drawing No. 3103.8, would satisfy the requirements of the Building Regulations.

Chute Forest Parish Council – A summary reads as follows;

The application only seems to deal with the first reason for refusal on previous application E/2011/1627/FUL. It does not adequately address the highways reason or the impact on trees. The applicants cannot achieve the required standard of visibility on their land.

The proposals are contrary to the Conservation Area Statement which states that 'the special enclosed character of routes through the settlement should be protected by resistance to proposals to open up and remove hedging'.

Planning history relates to unauthorised felling of trees in which the applicants were requested to plant two 'replacement' birch trees. As not covered by Tree Preservation Order and their current size does not warrant this status, the relocation of one could be agreed not to significantly affect the sylvan character of the area.

The Parish Council expressed concerns over foul drainage provision (these have since been provided and Building Control Officers are satisfied that this would offer a solution), and impact on trees and hedges (which the arboricultural officer has also advised would be acceptable subject to condition).

No indication of regarding works necessary at entrance has been provided – works stipulate 50mm topsoil removal only but there are concerns that this would not be suitable as there is a 600mm rise over the first 2 metres.

The Parish Council also pointed out a discrepancy in the plans and a boundary/ land ownership issue. These have since been updated to reflect title documents and survey drawing.

Chute Parish Council – The site is considered unsuitable and too small for a dwelling and no visibility to narrow highway entrance.

8. Publicity

This application has been advertised by way of a site notice, an advertisement in the local press and neighbour notifications. At the time of writing a total of 31 letters of objection have been received from 18 nearby residences. These set out the following summarised concerns:

- The safety of the access even with hedge removal.
- Concerns over accuracy of plans and ability of site to accommodate what is shown on the plans.
- Objection to infilling of last green breathing space between Chute Cadley and Lower Chute. Siting a house on the narrowest part of the road between Lower Chute and Chute Cadley will spoil the rural aspect between the villages.
- The proposal would set an undesirable precedent for further development.
- Once built upon, there is no going back.
- The site was an orchard, then a garden and allowed to develop into a wooded copse, associated with Chute Forest Cottage. This should be preserved and not cashed in for profit.
- The owners removed the trees unlawfully, harming the positive contribution this made to the character of the area and the wildlife. The owners were ordered to restore this to garden and not used as consideration towards a new development on the site.
- The plans (first set) do not show a septic tank or soakaway. There appear no real options for this given Root Protection Zones for retained trees, slope of site and greenfield run-off rate to be accommodated.
- Object to loss of existing mature yew, holly and box hedge to deal with the visibility issue. This would fail to preserve or enhance. New planting could not adequately replace this frontage as it would be set so far back as to change the intimate character of the street.

- The young trees planted following the illegal felling of trees have simply been dismissed as unimportant where in fact these are replacements for unlawful felling of mature trees.
- The Plot is very small and is constrained by trees such that they would not be protected during construction or afterwards.
- Any house built on this land would impose and overlook the houses opposite due to the ground level sloping towards the back of the site.
- The applicants do not live in the village nor have they for many years. They do not intend to live in the house and are trying to obtain planning permission for financial gain at the expense of the character of the village.
- There is nowhere for construction vehicles during a lengthy construction process.
- The house would overlook neighbouring houses and gardens to the detriment of neighbour privacy.
- The proposed dwelling would be too close to neighbouring dwellings and is disproportionately large for the size of the plot.
- The proposals contradict the Village Design Statement.
- The excavations will cause damage to trees
- The height of building on site levels will dominate
- The site is an eyesore caused by unlawful felling of trees on the site and neglect. Applicants had no intention of returning the site to garden land and is an example of planning creep. The hedge should be reinstated and trees planted.
- The amended plans demonstrate no resolution to access, visibility, protection of trees and wildlife and most importantly, highway safety.
- Appears the property would impinge on drainage system of Chute Forest Cottage.
- The plot has not increase in size, therefore a dwelling can still not be accommodated.
- There is no need for new housing in Chute Cadley.
- The proposal would have a detrimental impact on the special character and appearance of the conservation area and a potentially significant impact on listed buildings.
- Concerns have been raised regarding the validity of the application – in relation to the layout, tree protection, services especially drainage, site levels and heritage impact.
- The application does not overcome reasons for refusal upheld on appeal in 1988 or those in refusal dated 23rd August 2011.
- The application fails on policy grounds in relation to HC24 and PD1 in that it would consolidate loose knit sporadic development and cannot therefore be considered an infill plot.
- The driveway is inadequate leading to highway safety concerns.
- Furthermore, the loss of hedging would not be in harmony with the village in that it would destroy the character of this part of the village which is characterised by intimate enclosure of narrow lanes bordered by mature hedging.
- No formal Heritage Assessment has been submitted as required by the NPPF.
- The dwelling would fill a wooded area which is part of the setting of listed building, Chute Forest Cottage and the loss of the hedge destroys this special character. It therefore fails to preserve or enhance the character or appearance of the conservation area, a duty required by the Planning (Listed Building and Conservation Areas) Act.
- The listed buildings would be dominated by the proposed dwelling and this would weaken the spacious setting of the adjacent listed cottages.
- The proposal is contrary to the Kennet Landscape Strategy which seeks to allow development which does not unacceptably damage local character.
- The previous appeal considered whether the proposal would seriously harm the special environmental and landscape qualities and whether the site was large enough to permit the erection of a new dwelling without adversely affecting its character and appearance. Since this period additional constraints have emerged including the designation of the conservation area, and two adjacent listed buildings, the Conservation Area Statement and the Village Design Statement have all been published as well as significant tree constraints subject to Tree Preservation Order.
- The new dwelling cannot provide visibility splays at the required standard of 25m x 2m as this would require land outside the applicant's control. We cannot understand why the Highway Officer believes visibility can now be achieved. This inconsistency is perverse.

- No follow up has been provided to the arboricultural report following the sewage treatment plant.
- Object to relocation of trees ordered to be replanted.
- No justification has been provided to substantiate the harm to designated Heritage Assets (the conservation area and listed buildings) in accordance with the NPPF para 132.
- The proposals are inconsistent with policy PD1 B(3) and B(7).
- The proposed dwelling is within 7m of the neighbour's septic tank.
- The application process has been protracted and is having a significant effect on the village including stress and depression.
- The proposed additional vehicular movements and construction traffic would inevitably damage roadside verges which are an important feature.

9. Planning Considerations

The principle and impact on the character and appearance of the conservation area, including impact upon trees and the Area of Outstanding Natural Beauty.

It is of note that the Government have made it clear through the NPPF and ministerial statements that there should be a general presumption in favour of new housing in sustainable locations to address the national shortage. However, this clearly needs to be balanced with particular site constraints.

The site lies close to the boundary between the settlements of Chute Cadley and Lower Chute which are listed together under 'Table H5' as villages which are suitable for infill development subject to the following criteria as set out in policy HC24;

- a) Development must be within the existing building up area of the village;
- b) Development must not consolidate an existing sporadic loose knit area of development;
and
- c) Development must be in harmony with the village in terms of its scale and character.

The proposal should also comply with Policy PD1.

The application site is a gap between two dwellings in the area between two coalescing villages – Chute Cadley and Lower Chute. The 1988 appeal decision set out that at this time there was a clear visual break between the settlements and that there were potential other sites which could be developed if this one were allowed. In the opinion of officers, this has subsequently changed, with other new dwellings being found to be acceptable and this appears the final logical infill site left. It appears from historic maps that some form of building once occupied part of the site in the 1800's and therefore it seems unlikely that this site represents the original or last remaining gap between the two settlements.

Whilst planning policy has changed since the 1988 appeal decision, similar phrasing to that quoted by the Inspector exists in Policy HC24 of the adopted Kennet Local Plan 2011 in terms of the principle of 'infill' development. Policy HC24 permits infilling which is defined as 'a small gap within a group of houses, not sufficiently large for more than one dwelling'. In this instance it is considered that the site meets the definition of an infill plot and as a relatively distinctive linear settlement, where dwellings follow the pattern of the roads without significant gaps in between, it is not considered that the proposal would consolidate a loose knit or sporadic area of development. This accords with advice given at pre-application stage and is consistent with the decision made in 2011.

In respect of criteria c), the dwelling has been substantially downscaled and the design completely altered since the previous application. The proposed dwelling, although set on rising land, would be installed so as not to dominate the streetscene through its setting back from the roadside, its relatively modest height and its proposed floor level set into the site. This is shown through the

provision of a finished ridge level some 70 cm lower than the ridge of Chute Forest Cottage. It is designed as a single detached dwelling facing the roadside with some space to both sides and this accords with the grain of development in the area. The style of the dwelling has been altered to better reflect the appearance and proportions of modest vernacular cottages in the area with high quality handmade materials, including bricks, clay tiles and flint. It is now considered that the design is of a good quality and that the site could accommodate the scale of the proposed dwelling.

A key concern expressed by local residents and parish councils is the impact of the proposed dwelling upon the roadside hedge and upon the remaining trees on site which in turn would permanently harm the character of the area.

Whilst officers sympathise with the concerns of residents in assessing the proposed character and appearance of the site against its character and appearance prior to the removal of trees on the site, the Inspector held that such changes were acceptable and therefore its current state must be seen as the starting position.

The applicants have already created a large gap in the roadside hedge and it is of note that no consent would be required for its complete removal, notwithstanding the desire shared between officers, local residents, the parishes and the aspirations set out within the VDS and the CAS to preserve the intimacy created by roads bounded by mature hedging. Its loss would be required in order to secure adequate visibility required for a dwelling as set out by highway officers. Consequently, whilst the loss of the existing hedge could be deemed regrettable, officers consider that having regard to the fact this hedge could be removed at any date, the provision of a new semi-mature hedge planted behind the 2m parallel visibility would help to ensure the character of the area is not significantly harmed but is secured over the longer term.

The site layout and arboricultural report set out the Root Protection Areas for the trees on site. It was set out at pre-application stage that the retention of these trees and the importance of ensuring their retention over the longer term would be key in preserving the character of the site. The position of the dwelling, including service runs and parking and turning areas has been designed to take account of this, with a sufficient area now provided at the rear of the dwelling for amenity purposes, such that this should not result in undue pressure to significantly reduce or remove the adjacent trees. Following concerns expressed in representations, officers have sought additional advice in respect of both the proposed package treatment plant, the existing septic tank serving the neighbour's property, surface water drainage and the impact of these elements on trees. The applicant has now demonstrated that these matters can be addressed whilst complying with Building Regulations and ensuring no significant harm to trees subject to a condition. For this reason, it is not considered that these represent sufficient grounds for refusing planning permission.

The application would propose a new building on this site, however, it is not considered that this is incongruous with the character of the area and the proposal provides for the preservation or replacement of existing landscape features such that it is considered the proposed dwelling would have only a broadly neutral impact on the character and appearance of the conservation area and would not harm the objectives of the AONB.

Impact on setting of the adjacent listed buildings

The appeal Inspector, in determining the 1988 appeal, concluded that a dwelling on the site would not necessarily be seen as part of the setting of Providence Cottage across the lane and the well-established hedge between the site and Chute Forest Cottage would minimise the impact of the new dwelling. Since this time, it is noted that both buildings have been confirmed on the Statutory List (they were included as draft at the time of the previous appeal). However, officers are minded to agree with the Inspector's conclusions in this regard as the degree of separation, boundaries and positioning of the dwelling would not harm the setting of Chute Forest Cottage. The dwelling would be visible in the context of the setting of Providence Cottage, but set back from the opposite side of the lane and with a relatively modest ridge, it is not considered that this would impinge on

the spacious setting of Providence Cottage such that the application should be refused for this reason.

Neighbour Impact

The proposed dwelling is sufficiently distant and positioned such that it would not significantly harm the amenities of the occupiers of Chute Forest Cottage. The first floor windows in the front of the dwelling would look towards the garden of Providence Cottage, which is noted as their principal garden and which currently benefits from a relatively high degree of privacy. However, these first floor windows would serve bedrooms and would be set back some 14 metres across the lane from the nearest garden boundary of Providence Cottage. Therefore, whilst these would afford some views over the garden for Providence Cottage and consequently a degree of privacy would be lost for these neighbours, it is considered that having regard to the design and positioning of the proposed dwelling the level of overlooking would not result in significant harm to the amenities of the neighbouring occupiers such that it would warrant refusal of planning permission.

Highway safety

Some criticism has been directed towards the apparent inconsistency of highway comments. However, the Highway Officer comments clarify why this approach is not inconsistent and officers are satisfied that the proposed access and parking arrangements would not be detrimental to highway safety subject to conditions which are recommended in the event Members are minded to grant planning permission.

Other issues

Neighbours have raised the concern of damage to verges outside of the applicant's control and inconvenience of access during the construction period. Both of these matters are not capable of being controlled via planning condition but would be a civil matter.

10. Conclusion

The proposed dwelling is of a suitable design and scale for the locality and its position within the site and further submitted details demonstrate that the proposal would have only a broadly neutral impact upon the character and appearance of the conservation area and the AONB. No particular harm would result to the setting of adjacent listed buildings and the proposal as outlined would not be prejudicial to highway safety. The proposal would result in a degree of overlooking of the garden for Providence Cottage; however it is not considered that this would result in significant levels of harm to the amenities of neighbouring occupiers. The submitted location is sustainable in planning terms and having regard to the Government's drive to significantly boost housing supply, approval of planning permission is recommended. In the event Members are minded to grant planning permission, a list of suggested conditions is attached.

RECOMMENDATION

That planning permission be GRANTED with the following conditions:

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

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

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

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

- 3 Notwithstanding the submitted details, no development shall commence on site until a sample panel of the external flintwork, including dressing, coursing and bedding of the flint, type of pointing and mortar mix, has been prepared on site and approved in writing by the Local Planning Authority. The external flintwork of the dwelling shall be constructed in accordance with the approved details and the sample panel retained on site for comparison purposes during construction.

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

INFORMATIVE TO APPLICANT:

It is highly likely that flint work will need to be hand laid, using a traditional lime based mortar, with care taken not to smear mortar over the faces, to achieve the necessary density and lack of visible coursing which usually results from the use of pre-formed flint blocks.

- 4 No works shall commence on site until large scale details of window reveals, eaves, ridges and verges and all new external window and door joinery have been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include elevations at a scale of not less than 1:20 and horizontal/vertical frame sections (including sections through glazing bars) at not less than 1:2. The works shall be carried out in accordance with the approved details.

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

- 5 The rooflight hereby approved shall be of the 'conservation' type with a single vertical glazing bar and mounted flush with the roof slope.

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

- 6 The dwelling hereby approved shall be carried out in full accordance with the submitted levels details approved on plan 3103.8 as amended to take account of the survey levels.

REASON: In the interests of visual amenity, preserving the character and appearance of the conservation area, neighbour amenity and the setting of adjacent listed buildings.

- 7 Notwithstanding the submitted details, no development shall commence on site until further details of the hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include:-
- a) a detailed planting specification showing all plant species, supply, locations, planting sizes and planting densities. This shall be based on the amended plan set out on drawing number 3103.8 and shall include the provision of a semi-mature hedge to the frontage;
 - b) finished levels and contours including details and cross sections of the levels across the front boundary;
 - c) any gates or other means of enclosure;
 - d) all hard and soft surfacing materials;
 - e) the planting or relocation of two trees the subject of the previous replanting order, of a size and species and in a location to be agreed in writing with the Local Planning Authority.

REASON: To ensure a satisfactory landscaped setting for the development and to preserve the character and appearance of the conservation area.

- 8 No demolition, site clearance or development shall commence on site until the protective fencing has been installed in accordance with the details set out in the Arboricultural Report dated December 2012. This shall be maintained in full accordance with these details until all works are complete and excess materials and plant removed from site. Any re-grading within Root Protection Areas or excavations necessary for the purposes of running any services shall not be commenced until full details of such works including mitigation measures have been submitted to and approved in writing by the local planning authority. All works shall subsequently be carried out in strict accordance with the Arboricultural Report or any subsequently approved details.

REASON: In order to protect trees to be retained in the interests of preserving the character and appearance of the area.

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

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

- 10 The dwelling hereby permitted shall not be first occupied until the first two metres of the access, measured from the edge of the carriageway, has been consolidated and surfaced (not loose stone or gravel). The access shall be maintained as such thereafter.

REASON: In the interests of highway safety.

- 11 The development hereby permitted shall not be occupied or first brought into use until the area between the nearside carriageway edge and a line drawn 2 metres parallel thereto over the entire site frontage has been cleared of any obstruction to visibility at and above a height of 900 mm above the nearside carriageway level. That area shall be maintained free of obstruction at all times thereafter.

REASON: In the interests of highway safety.

INFORMATIVE TO APPLICANT:

The intention of the above condition is not to permit works to the trees to be retained at either end of the site. Such works may require a Conservation Area Treeworks notice. Should the applicant consider that works are necessary to facilitate the required splay, full details should be submitted to the Council for their prior approval.

- 12 No part of the dwelling hereby approved shall be first occupied until the parking, access and turning areas shown on the approved plans have been consolidated, surfaced and laid out in accordance with the approved details. This area shall be maintained and remain available for this use at all times thereafter.

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

- 13 Any gates approved as part of condition number 7 shall be set back 4.5 metres from the edge of the carriageway, such gates to open inwards only, in perpetuity.

REASON: In the interests of highway safety.

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

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

- 15 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 buildings or structures, or gate, wall, fence or other means of enclosure, other than those shown on the approved plans, shall be erected or placed anywhere on the site on the approved plans.

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

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

3103.8 received on the 4th June 2013, the Package Treatment Plant details and plan received on the 22nd April 2013 (unless updated and approved under condition number 8) 3103.7 received on the 19th February in respect of scaled elevations and floorplans only (Site Plan subsequently amended) and the Arboricultural Report by Certhia Consulting received on the 19th February 2013, Topographical Survey by Brunel Surveys received on the 23rd May 2013 and Site Location Plan received on the 4th June 2013.

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

- 17 INFORMATIVE TO APPLICANT:

The applicant is requested to note that there is local concern regarding the lack of available spaces to accommodate construction vehicles and the likely damage to roadside verges. The applicant should be sensitive to such concerns with regard to the timings, routes and locations of delivery or construction vehicles and should consider repairs to verges in the event that damage occurs.



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