

AGENDA

Meeting: Northern Area Planning Committee
Place: Council Chamber - Council Offices, Monkton Park, Chippenham,
SN15 1ER
Date: Wednesday 23 April 2014
Time: 6.00 pm

Please direct any enquiries on this Agenda to Eleanor Slack, of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 718255 or email eleanor.slack@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 Christine Crisp	Cllr Mark Packard
Cllr Bill Douglas	Cllr Sheila Parker
Cllr Mollie Groom	Cllr Toby Sturgis
Cllr Chris Hurst	Cllr Anthony Trotman (Chairman)
Cllr Peter Hutton (Vice-Chair)	Cllr Philip Whalley
Cllr Simon Killane	

Substitutes:

Cllr Desna Allen	Cllr Dennis Drewett
Cllr Glenis Ansell	Cllr Howard Greenman
Cllr Chuck Berry	Cllr Jacqui Lay
Cllr Mary Champion	Cllr Howard Marshall
Cllr Terry Chivers	Cllr Nick Watts
Cllr Ernie Clark	

AGENDA

Part I

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

1 **Apologies**

To receive any 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 2 April 2014.

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 Chairman.

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 Monday 14 April 2014**. Please contact the officer named on the front of this agenda for

further advice. Questions may be asked without notice if the Chairman decides that the matter is urgent.

Details of any questions received will be circulated to Committee members prior to the meeting and made available at the meeting and on the Council's website.

6 Planning Applications (Pages 7 - 8)

To consider and determine planning applications in the attached schedule.

- 6a **12.03594 - Octavian, Eastlays, Gastard, Wiltshire, SN13 9PP (Pages 9 - 20)**
- 6b **13.05668.VAR.SS - Bassett Down Golf Club, Hay Lane, Bassett Down, Swindon, SN4 9QP (Pages 21 - 32)**
- 6c **13.00958.S73A - Oaksey Park, Lowfield farm, Oaksey, Wiltshire (Pages 33 - 54)**
- 6d **13.06672 - 56 New Road, Chippenham, SN15 1ES (Pages 55 - 64)**
- 6e **13.07226 - 9 Gaston Lane, Sherston, Wiltshire, SN16 0LY (Pages 65 - 76)**

7 Urgent Items

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

Part II

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

None

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NORTHERN AREA PLANNING COMMITTEE

**DRAFT MINUTES OF THE NORTHERN AREA PLANNING COMMITTEE MEETING
HELD ON 2 APRIL 2014 AT COUNCIL CHAMBER - COUNCIL OFFICES,
MONKTON PARK, CHIPPENHAM, SN15 1ER.**

Present:

Cllr Chuck Berry (Substitute), Cllr Bill Douglas, Cllr Mollie Groom, Cllr Chris Hurst,
Cllr Peter Hutton (Vice-Chair), Cllr Jacqui Lay (Substitute), Cllr Mark Packard,
Cllr Sheila Parker, Cllr Toby Sturgis and Cllr Philip Whalley

25 **Apologies**

Apologies were received from Cllr Trotman, Cllr Crisp and Cllr Killane.

Cllr Trotman was substituted by Cllr Berry and Cllr Crisp was substituted by Cllr Lay.

26 **Minutes of the previous Meeting**

The minutes of the meeting held on 12 March 2014 were presented.

Resolved:

Subject to amending the meeting times and the reason to refuse application 13/05388/FUL – 30 Stone Lane, Lydiard Millicent, to include reference to the garage; to approve as a true and correct record and sign the minutes.

27 **Declarations of Interest**

There were no declarations of interest.

28 **Chairman's Announcements**

The Chairman explained that application 13/00958/s73a – Oaksey Park, Lowfield Farm, Oaksey was withdrawn from the agenda. A report relating to the application had not been made publicly available because it was considered to contain personal and financially sensitive information. Following a request under the Freedom of Information Act, a redacted version of the report was made available. Following legal advice, the redacted report was published on the Wiltshire Council website, and the application was withdrawn to allow for consideration of the report.

29 **Public Participation and Councillors' Questions**

The Committee noted the rules on public participation.

30 **Planning Applications**

Attention was drawn to the late list of observations provided at the meeting and attached to these minutes, in respect of applications **8** and **9** as listed in the agenda pack.

31 **13/00958 - ITEM WITHDRAWN - Oaksey Park, Lowfield farm, Oaksey, Wiltshire - ITEM WITHDRAWN**

Application 13/00958 – Oaksey Park, Lowfield Farm, Oaksey, Wiltshire was withdrawn from the agenda and was not considered by the Committee.

32 **13/05989 - Land opposite 21 Greenhill, Wootton Bassett, Wiltshire, SN4 8EH**

Jonathan Hearn and Mrs Phillips spoke in objection to the application.

Andy Wakeley Mr Patnaik and Cllr John Bennett spoke in support of the application.

The officer introduced the report which recommended that planning permission be refused.

She explained that the majority of the structures on the site would be demolished under the proposal. Much of the vegetation on the site was overgrown and there was a high hedge at the front of the site. Highways officers had objected to the development on the grounds of sustainability. The proposed development did not accord with planning policy and although fly tipping and anti-social behaviour occurred in the area, the officer did not believe that these provided sufficient reason to grant planning permission. She noted the late observations which were circulated at the meeting and were published as an agenda supplement.

The Committee then had the opportunity to ask technical questions of officers and it was confirmed that the site did not have brownhill status.

Members of the public then addressed the Committee as detailed above.

The local member Cllr Groom spoke in support of the application. She highlighted the problems with fly tipping in the area and noted that the application had received support from the Parish Council.

In the debate that followed the Committee discussed planning policy, and the lack of policy justification for the development. The Committee noted other disused agricultural land in Wiltshire, and the possibility that allowing the development could result in a floodgate of similar applications.

It was resolved to:

REFUSE planning permission for the following reasons:

- 1) The proposal is for a new dwelling in the countryside without special justification contrary to policies C3 and H4 of the North Wiltshire Local Plan 2011 and guidance given in 6 of The National Planning policy Framework 2012.**
- 2) The proposal, located remote from services, employment opportunities and being unlikely to be well served by public transport is contrary to key aims of local and national sustainable transport policy guidance which seeks to reduce growth in the length and number of motorised journeys. It is therefore contrary to policy C3 and the tenor and guidance given in National Planning Policy Framework 2012.**
- 3) The Council has been unable to secure a Section 106 Agreement in respect of financial contributions to upgrade Public Open Space in the area. The development is thus contrary to Policies H3 and CF3 of the adopted North Wiltshire Local Plan 2011.**

33 **13/06430/OUT - Hunting Villa Farm, Hunts Mill Road, Royal Wootton Bassett, Swindon, SN4 7FS**

Philippa Hussey, Richard Hussey and Cllr Chris Wannell spoke in support of the application.

The officer introduced the report which recommended that planning permission be refused.

She highlighted an error in the report, and confirmed that the site should be described as a dwelling in association with an equine enterprise. The site was contained within open fields, to the north of a flood zone. There was one single

mare on site, with a foal imminent which the applicant hoped would increase to three mares with offspring resulting in a total of 15 horses on site. There was no way to control the value of the stock and the application did not contain a financial plan to set out how the development could produce an agricultural wage.

The Committee then had the opportunity to ask technical questions of officers and it was confirmed that a bus service ran close to the site. It was also confirmed that the plan contained within the agenda was incorrect.

Members of the public then addressed the Committee as detailed above.

The local member Cllr Hurst spoke in support of the application. He noted the lack of local objection to the application, policies C4 and T1 of the Local plan and a number of services on site and in the local area including water, a BT connection and a bus service.

A motion to delegate to the Area Development Manager to grant planning permission subject to conditions was moved and seconded, voted on and lost.

In the debate that followed the Committee noted the lack of a financial plan, and the potential for the planning application to lead to other similar developments. The specialist nature of the industry was noted as was the shortage of horses available to compete.

It was resolved to:

REFUSE planning permission for the following reasons:

- 1) The application is for a new dwelling in the countryside without sufficient justification and is thus contrary to policies C3 and H4 of the North Wiltshire Local Plan 2011 and guidance contained in section 6 of the National Planning Policy Framework 2012.**
- 2) The proposal, located remote from services, and being unlikely to be well served by public transport, is contrary to the key aims of both National and Local Planning Policies which aim to encourage sustainable development. It is therefore contrary to policies C3 of North Wiltshire local Plan 2011 and the advice and tenor the guidance given in the National Planning policy Framework 2012 on promoting sustainable development.**

34 **Urgent Items**

There were no urgent items.

(Duration of meeting: 6.00 - 7.15 pm)

The Officer who has produced these minutes is Eleanor Slack, of Democratic Services, direct line 01225 718255, e-mail eleanor.slack@wiltshire.gov.uk

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Wiltshire Council

Northern Area Planning Committee

23 April 2014

INDEX OF APPLICATIONS ON 23/04/2014

	APPLICATION NO.	SITE LOCATION	DEVELOPMENT	RECOMMENDATION
6a	12/03594/FUL	Octavian Eastlays Gastard Wiltshire SN13 9PP	Proposed above ground specialist storage facility, parking and external landscaping	To grant permission
6b	13/05668/VAR	Bassett Down Golf Club Hay Lane Bassett Down Swindon SN4 9QP	Variation of Condition 13 of 09/00079/COU	To recommend that condition 13 to planning permission 09/00079/COU be varied.
6c	N/13/00958/S73A	Oaksey Park Lowfield farm Oaksey Wiltshire	Removal of Conditions 8, 9 and 10 imposed on application reference 10/03612/S73A which varied condition No 7 of 02/01841/FUL and appeal APP/J3910/A/04/1145607, allowing the unrestricted residential occupancy of units 12 to 19 (8 in total)	Delegated to Area Development Manager
6d	13/06672/FUL	56 New Road Chippenham SN15 1ES	Conversion of shop (A1) to Gym (D2) and erection of single storey extensions to side to create access and alterations to existing shop front	To grant permission
6e	13/07226/FUL	9 Gaston Lane Sherston Wiltshire SN16 0LY	Detached Dwelling & Detached Single Garage	Delegated to Area Development Manager

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REPORT TO THE AREA PLANNING COMMITTEE

Date of Meeting	23rd April 2014
Application Number	12/03594/FUL
Site Address	Octavian Eastlays Gastard Wiltshire SN13 9PP
Proposal	Proposed above ground specialist storage facility, parking and external landscaping
Applicant	Octavian Wine Services
Town/Parish Council	Corsham
Ward	Corsham Without & Box Hill
Grid Ref	388101 167619
Type of application	Full Planning
Case Officer	Simon Smith

Reason for the application being considered by Committee

Under the Council's Scheme of Delegation Specific to Planning, Councillor Tonge has requested this application be considered by the Northern Area Planning Committee to enable the consideration of traffic issues and potential impact upon the surrounding communities.

1. Purpose of report

To consider the above application and to recommend that planning permission be GRANTED subject to conditions.

2. Report summary

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

- Principle of development
- Visual impact of proposal
 - Existing situation
 - Impact
- Transportation and highway safety
 - *Village traffic survey*
- Ecology
- Impact on residential amenity

The application has generated 37 letters of objection from residents. Corsham Town Council object to the application on the grounds of impact on residential amenity, ecology and highways.

3. Site Description

Known as Eastlays Mine, a former stone mine and military munitions store, the application site is located South West of Gastard village and Chapel Knapp. The site is accessed from the B3353 Goodes Hill, the road linking Gastard/Chapel Knapp to the North and Whitley to the South.

Some 17Ha in size, the application site is located on rising ground, close to a ridge line that crests close to Chapel Knapp. The focus of development sits within an artificially created topographic bowl predominantly created by spoil from past mine workings. Several above ground buildings exist within the site, servicing the substantial underground workings, used for wine storage.

Octavian Wine Services specialise in the long term storage of fine wines. At some 27m (90ft) depth, the conditions found within the underground mine workings, are found to be ideal to achieve optimum temperature and humidity for storage. Although predominantly taking place below ground in the significant mine workings, the entire site (both above and below ground) is an established employment site benefitting from a B8 use class (ie. wholesale warehousing and distribution centres).

The site is located outside of any Settlement Framework Boundary defined in the adopted North Wiltshire Local Plan 2011, therefore by default being part of the countryside in planning policy terms. The site is not part of any defined landscape designation.

4. Relevant Planning History		
Application Number	Proposal	Decision
12/02170/FUL	Office extension and repositioning of security building	Permission 26/09/12
12/00751/SCR	Screening opinion as to EIA required for storage building	EIA not required
11/02340/FUL	Erection of single storey security building; single storey garaging and archive building; single storey extension to warehouse building to provide staff facilities and car port	Permission 01/09/11
11/02584/FUL	Single Storey Extension to Existing Main Building	Permission 21/09/11
11/02339/FUL	Erection of a Single Storey Visitor Reception Building	Permission 01/09/11

5. Proposal

The Octavian Wine Services business operates a business at the Eastlays site comprising some 90,000sqm underground storage with 1700sqm of above ground floor space. Octavian operate a separate above ground facility at Colerne, designed to replicate the conditions found underground at the Eastlays site. It is understood that Octavian Wine Services, and the Eastlays site in particular (marketed as “Corsham Cellars”), is of international renown in the fine wine investment industry.

The applicant has confirmed that the demand for storage space at their facilities is increasing and it is therefore proposed to expand their capacity at the Eastlays site. Accordingly, the proposal is to construct a 6,200m² of B8 warehouse building, providing space for a minimum of 300,000 cases of wine. Undeniably, the building would be substantial in size, with a maximum height of 11.0m above ground level. Length would be some 132m and width 70m at their maximum. The building would be of a typical warehouse design and appearance, fitted with an external powder coated cladding system in an effort to provide some visual relief to its largely unbroken massing.

The applicant currently employs 105 people at the Corsham site, 35 at the Colerne site, with the development expected to generate an additional 25 jobs;

6. Planning Policy

North Wiltshire Local Plan 2011 Policies:

C3 (general development control policy)
C4 (business development)
BD5 (rural business development)
NE15 (landscape character)
NE9 (protection of species)

National Planning Policy Framework (NPPF)
Planning Practice Guidance (PPG)

7. Consultations

Corsham Town Council – Resolved: that the application be refused for the following reasons:

- (i) The high visibility of an industrial building within a rural setting close to a Conservation Area
- (ii) Concerns over noise created by the compressors, air handling units and traffic on site
- (iii) Concerns over increased traffic movements on the B3353
- (iv) Loss of established woodland and impact on wildlife
- (v) The proposals are contrary to Policies BD4, BD5, NE15, NE20 and Core Policy C3 of the North Wiltshire Local Plan 2011.

Melksham Without Parish Council – Outside MW parish.

Highway Officer – Considers that the any traffic generated by this proposal would not represent a significant increase and neither would its use of the existing access. Full and detailed commentary from the Highway Officer forms basis of “Transportation and highway safety” section of this report.

Landscape and Design Officer – Raises concerns, but does not believe a reason for refusal based on landscape impact would be reasonable.

Council Ecologist – Following receipt of additional information and commitments from the applicant, raises no objections to the proposed scheme subject to the imposition of planning conditions.

Environmental Health Officer – No objections subject to conditions.

8. Publicity

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

37 letters of objection received from local residents. Main relevant planning issues raised:

- Impact upon amenity and living conditions of nearby residents

- Impact of such a large building on the rural landscape
- Design and overwhelming mass of the building is entirely inconsistent with the character and feel of rural area
- Light and noise pollution generated by increased activities
- Impact upon farming activities on surrounding land – especially from light pollution and use of road currently shared by applicant and adjoining agricultural business
- Increase in traffic accessing site would cause highway danger
- B3353 Goodes Hill is narrow and not suitable for industrial traffic
- Traffic survey carried out by Gastard community found actual situation on roads exceeds that stated in applicant's "Transport Statement"
- Traffic generated by proposal would exceed that generated by previous MoD and quarrying activities carried out on site
- Small amount of new employment generated does not justify such a large impact
- Plenty of alternative industrial premises locally, more suitable than this rural and isolated location.

9. Planning Considerations

Principle of development

The application site is located outside of any Settlement Framework Boundary, as defined within the adopted North Wiltshire Local Plan 2011. As such, in planning policy terms the site is regarded as open countryside. In this context, Policy BD5 of the adopted North Wiltshire Local Plan 2011 is applicable.

Criterion (ii) to Policy BD5 does envisage that the principle of new business development to be acceptable where it :

"Involves limited new building located within or well related to an existing group of buildings which respects local building styles and materials, and is in keeping with its surroundings;"

In particular, Policy BD5 also requires new business development to be in itself "limited". For the purposes of assessing the visual impact of the proposal, this requirement is considered to have broadly the same aim as the requirement to be "well related" to existing buildings, but perhaps with the added component of an assessment of the appropriateness of the scale of development to the settlement in which it sits. In the absence of any real definition within the Local Plan, it is left to individual interpretation as to what "limited" is, and whether a proposed development is "in keeping with its surroundings".

Also positively framed, Criterion (iii) Policy C4 of the adopted Local Plan states as follows:

"New business development, which promotes a diverse and robust economy, whilst having regard to the environmental impact, will be granted planning permission subject to...(iii) Proposals in the open countryside, including the re-use of rural buildings, will only be allowed if they are in keeping with surroundings and exhibit potential to sustain the local rural economy."

Paragraph 28 of the NPPF underpins Local Plan policy by reiterating that:

"Planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, local and neighbourhood plans should: support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings;"

Clearly, in this instance there is an existing business building on the site and all levels of policy make it clear that planning decisions should allow flexibility for business in rural locations to grow

on their existing site. In allowing for such expansions, increased employment opportunities for local residents and the local rural economy will flow.

As is evident, planning policy does not offer *carte blanche* in respect of new business development. Indeed, it is unequivocal in stating that the relative success or failure of a proposed expansion must rest upon more detailed considerations such as the appropriateness of its form, scale, highway safety, impact upon residential amenity, as well as any potential impact upon vitality of nearby town and village centres. Indeed, the presumption in favour of development set out in the NPPF only exists where that development can be proved to be sustainable. In essence, such matters are considered below.

Visual impact of proposal

Existing situation

The site lies within countryside NE15, within 'Landscape Character Area 10 –Corsham Rolling Lowland' of the *North Wiltshire Landscape Character Assessment*, outside any settlement boundary. The site is surrounded by agricultural land. The site was a former quarry, before being used by the MOD. The MOD buildings have long since been demolished, although evidence of foundation slabs and rubble, mounds and bunds are evident around the site. The wider unoccupied part of the former quarry/MOD site has been abandoned for many years, and much of it has been colonised by scrub and trees to form a largely wooded site.

The existing above ground development at this site is modest in scale and reasonably discrete in the local landscape context, despite its elevated topographical location. This is largely due to the existing perimeter woodland blocks, which provide visual screening and filtering functions. The limited height of the existing buildings in combination with surrounding rolling topography and existing vegetation absorb existing development into the wider landscape. As a result, views into the site and of the existing built form are limited; substantially screened in summer, and filtered in winter, with the exception of the orange glow of external lighting, which highlights the presence of development in this rural countryside location, especially during the winter months

Impact

It is undeniable that the building is of substantial scale and, despite the topographic bowl within which the Eastlays site sits, it will undoubtedly be visible in the landscape. Precisely because of the likely impact of the proposal, concerns have been raised by the Council's Landscape & Design Officer and series of iterative submissions made by the applicant.

In an effort to shield views of the building, a revised landscape framework plan was submitted. This illustrates the changes to areas of scrub clearance (to accommodate increased areas of calcareous grassland creation/management) and proposed areas of woodland reinforcement proposed. The revised plan incorporates additional field boundary tree/hedgerow belt planting between the proposed development site and Chapel Knapp to the North-West boundary along the route of FP1, which follows the Northern boundary of the site. Some additional tree planting within hedgerows along the south eastern boundary corner along the route of FP13 is also proposed. Existing made ground and mature planting to the South of the site is considered to be effective in its screening of the new building.

While welcoming the additional planting because of the support and enhancement it provides for the local landscape character, the Council's Landscape & Design Officer rightly points out that it is likely to be at least 15-20 years before any new planting begins to help break up views of the upper building elevation and roof/ridgeline (a considerably longer period than is contended by the applicant). In the short and medium terms, therefore, a good proportion of the building will be visible, with it being more prominent in winter.

The visual impact of the proposed building will therefore be harmful to the landscape. However, the Council's Landscape & Design Officer has acknowledged that the harm will be localised and

limited to certain visual receptors and viewpoints, namely: the Green at Chapel Knapp, Boyds Farm, Boyds Farm Cottages, The Plough Cottage, and the Public footpaths north of Green Road within the identified Zone of Visual Influence (as set out in the submitted assessments). Whilst from these locations it will be possible to gain various broken and part views of the upper, north, and west building elevations and respective roof lines, such views will not be possible from greater distance. Going further the proposed landscape mitigation is judged by the Landscape Officer to be well considered and will, over time, reduce and minimise harmful landscape and visual effects and contribute to strengthening local landscape character.

Objectively, the proposal might still be considered to result in a dramatic visual alteration. However, this is a situation that would, to one degree or another, result from most proposals for development being considered against Local Plan Policy BD5, which of course is a policy worded precisely to at least allow consideration of proposals to expand existing businesses in the countryside. In the context of an effect that is acknowledged to be localised (and not all pervasive to the wider landscape) and one that will diminish in time, the justification to refuse planning permission on this basis becomes less compelling.

Transportation and impact upon highway safety

The proposal is for 6200m² of additional storage to supplement the existing 90,000m² of underground storage. This represents a 7% increase in storage area. There are currently 105 employees. A Transport Statement has been submitted and this has stated that existing commercial vehicles average 23 arrivals a day, comprising a mix of vans and HGVs. Current peak period flows are 38 vehicles inbound and 31 vehicles outbound comprising predominantly private cars.

The applicant suggests that the increase in storage area will create 20 additional jobs and that commercial vehicle arrivals will increase by up to 25%. Applying these increases to the existing flows it would result in an additional 6 commercial vehicles per day, less than one per hour, and up to 8 additional cars in each peak. Taking these calculations, the Council's Highway Officer has concluded that these are insignificant increases in the context of existing traffic.

A further assessment was undertaken using the TRICS database. This resulted in higher additional flows than suggested above. However, the categories used for this calculation relate to general warehousing which, as the Council's Highway Officer points out, generate far higher levels of traffic than the somewhat specialist long term wine storage use which exists on this site. This is borne out by the current levels of traffic generation which are significantly lower than would normally be expected from 90,000 m² of warehousing. In view of this, the Council's Highway Officer concludes that there is no reason to doubt the credibility of the increases predicted by the applicant.

Objectors have suggested that the existing junction of the access road with 83353 is dangerous. However, it is factually the case that there have been no recorded injury accidents within the last ten years related to the junction. The Council's Highway Officer does note that although visibility to the south is less than ideal, he does not consider the junction to be inherently dangerous, as demonstrated by the accident record. In view of the clear advice of the Council's Highway Officer based on the demonstrable evidence available, it must be concluded that the increased traffic generated by the proposed development will not result in a significant increase in risk to other road users.

Village traffic survey

It is understood that the local community conducted a traffic survey on Thursday 25th July and Monday 29th July 2013. Along with other representations received from local residents, the results of the survey have been forwarded to and evaluated by the Council's Highway Officer.

Comparing the traffic count data with the figures quoted in the summary table of the main representation received (from Wooley & Wallis Chartered Surveyors acting on behalf of a nearby

neighbour), the Highway Officer finds it difficult to understand how the figures in the summary table are calculated, as these are higher than the traffic count would suggest. In addition the am period has been taken as 1½ hours as against the one hour used in the Transport Statement. This makes comparison in the morning peak difficult and conclusions potentially misleading.

The table below compares the two figures from which it can be seen that in both peaks the traffic count produces similar figures to those in the Transport Statement submitted by the applicant.

	Inbound			Outbound			Total	
	Traffic Count (1½ hrs)	Hourly Equivalent	Transport statement	Traffic Count (1½ hrs)	Hourly Equivalent	Transport statement	Traffic Count (HE)	T S
Am Peak	46	31	38	4	3	4	34	42
Pm Peak	6	N/A	1	24	N/A	31	30	32

The other issue to be considered is the number of service vehicles. Here there is a significant difference between the Transport Statement and the village count (46 movements v 70av). However the village count indicates a large number of light vans and it may well be that a number of these are not service traffic as identified by Octavian. Some may even have been used by employees to travel to work.

The Council's Highway Officer reaches a clear conclusion on this matter. The traffic survey conducted by the local community does not alter the Highway Officer's view that any traffic generated by this proposal would not represent a significant increase and that the access to the site is suitable. There is no reason to diverge from his clear conclusions.

Ecology

The application site is not part of any defined sensitive ecological area. Over time, however, habitats have developed on the site since the cessation of quarrying and military activity which include broadleaved woodland scrub, calcareous grassland and tall herb. Elements of these habitats would be lost as a result of development and it is therefore necessary for the scheme to include measures for compensatory habitats.

The mitigation strategy for the site has been amended. Compensation for loss of BAP habitat types ('Mixed Deciduous Woodland' and 'Calcareous Grassland') and now includes significantly greater proportion calcareous grassland. Such grassland can be more quickly restored / created than planting new deciduous woodland, thereby reducing the temporal magnitude of the habitat loss. The calcareous grassland at this site is also considered to be of greater value than the woodland stands, therefore greater biodiversity gains could be achieved through grassland creation than woodland planting.

Unfortunately, significant areas of vegetation removal would be required in order to create the required areas of compensatory grassland, thereby reducing the screening effects when the new building is viewed from the surrounding countryside. Due to the variable geology and soil conditions on the site, grassland creation is most likely to be successful on areas of higher ground (where it generally already occurs), however removal of vegetation from these areas is likely to have the greatest loss of screening function. This tension has not been lost on Council Officers and considerable time has been spent on achieving an optimal balance between these competing factors.

Impact on residential amenity

Given the size of the warehouse building, it is understandable that concerns have been raised by local residents regarding the potential for increased activity on the site to have an impact upon amenity and living conditions. In particular, Boyds Farm, the closest residential property some 300m – 400m to the north of the site and the grouping of houses at Chapel Knapp a little further to the North East.

B8 warehouse type activities are not expected to generate noise and disturbance to the same degree as a more general industrial B2 use class. Nevertheless, it is natural to assume that a building of this size, containing large quantities of an expensive commodity, will necessitate security lighting and static plant (mainly air conditioning). However, in the context of planting and the topography of the site, which will eliminate overt impacts, it is considered that the imposition of suitably worded planning conditions can adequately control such features so as to avoid any unacceptable impacts upon residential amenity.

In view of the scale of development, it is considered relevant and reasonable to impose a planning condition controlling the construction phase of development.

The Highway Officer's conclusion that traffic increases would be minimal also renders traffic based disturbance minimal. Specifically, noise from the activity of unloading and reversing alarms can be addressed via planning conditions.

The Council's Environmental Health Officer has concluded similarly.

Other matters

Concerns have been raised locally in respect of the potential effect the development would have upon private rights of way across Green Road (which is the site access and leads to the adjoining farm) are precisely that, a private matter. There is no evidence that the proposed building, being self contained on the applicant's land, would somehow prejudice the farming activities on surrounding land.

Attention has been drawn to a legal agreement dating from 1976 between previous owners of the application site and to which Wiltshire County Council was party (at the time not being the Local Planning Authority for matters other than minerals and waste development). Amongst other matters, that agreement identifies land (which includes the application site) upon which no thing should be stored. As drafted, it is unclear whether the agreement relates to external, internal or underground storage. If either of the latter two, it is likely that the provisions of the agreement has been breached for many years. In any event, the judgements and conclusions set out in this report would not necessarily be incompatible and it is possible for an application to be submitted seeking a modification to that agreement if it is felt to present an impediment to the implementation of a planning permission.

It has been suggested that the application should have been submitted complete with a Heritage Asset Statement type document. Whilst Boyds Farmhouse is a Listed building and there is a Conservation Area designated for part of Gastard, both are some distance from the application site. As assessed elsewhere in the report, the proposal would have a minimal impact upon the setting of such heritage assets and a formal statement of such, as advised in the NPPF, is not considered mandatory in this instance.

10. Conclusion

The proposed building is substantial in scale. It is undeniable that the top part of the development will be visible in the landscape in the short and medium terms. However, the visibility, and therefore the impact is be localised as approaching the site along Goodes Hill, with overt views not

being possible at greater distance. In the longer term, the mitigation offered by the proposed landscape and planting scheme will be complete.

The landscape and ecological mitigation packages now proposed offer an acceptable balance between compensation of grassland habitats and planting to aid screening.

Any traffic generated by this proposal would not represent a significant increase and neither would its use of the existing access

Due to the specialist nature of the business, the proposed development would not generate a significant number of jobs when compared to the scale of building to be built. However, it is nonetheless the case that Octavian Wine Services is a locally centred company with international standing which is demonstrably contributing to the local rural economy. Whilst it is likely that the unique conditions offered by the underground workings mean the company would not wish to relocate, planning policy at all levels does insist that proposals for new business development should be granted planning permission when considered to be sustainable.

In the absence of unequivocal and convincing reasons to refuse planning permission, the recommendation must be to grant planning permission.

11. Recommendation

Planning Permission to 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 Section 91 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out strictly in accordance with the approved plans and documents subject to such minor amendments to the development as may be approved in writing under this condition by the local planning authority.

Reason: To ensure that the development is implemented in accordance with this decision in the interests of public amenity, but also to allow for the approval of minor variations which do not materially affect the permission.

3. No development shall commence until details of the proposed and existing levels across the site (including details of the finished floor levels of all buildings hereby permitted) have been submitted to, and approved in writing by, the local planning authority. The development shall be carried out in accordance with the details so approved.

Reason: In the interests of securing a satisfactory form of development that minimises impact upon the locality and listed buildings.

4. No new lighting whatsoever shall be installed at the site (including any lighting to be fixed to the building hereby granted planning permission) until full and complete details of such have been submitted to and agreed in writing by the Local Planning Authority. Such details shall include lux plans to demonstrate current and proposed light levels across the entire site and beyond and shall clearly set out how such lighting will be maintained and minimised in the future. The lighting installed in complete accordance with the details so agreed and shall remain in that condition thereafter.

Reason: In the interests of securing development that does not present an unacceptable impact upon the living conditions of nearby residents nor adversely impact upon the ecological value of the area.

5. Prior to the commencement of development, full and complete specification and details of all fixed plant to be installed on the site (including any plant to be installed on the building hereby granted planning permission). Details shall include, but not be limited to, all air conditioning and ventilation equipment to be installed at the site and shall come complete with proposed measure to limit their operating noise and times of operation. Development shall be carried out in complete accordance with those details so agreed.

Reason: So as to limit ensure new fixed plant to be installed on the site does not pose an unacceptable impact upon the amenity and living conditions of nearby residential occupiers.

6. Prior to the commencement of development full and complete details of the proposed external materials to be used in the construction of the new building shall have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in complete accordance with those detail so agreed.

Reason: For the avoidance of doubt and to secure a suitable form of development that respects the character and appearance of the listed buildings and surrounding locality.

7. No raw materials, finished or unfinished products or parts, crates, materials, waste, refuse or any other item shall be stacked or stored outside any building on the site without the prior approval in writing of the local planning authority.

Reason: For the avoidance of doubt and to secure a suitable form of development that respects the character and appearance of the listed buildings and surrounding locality.

8. During the construction phase of development no machinery shall be operated, no process shall be carried out and no delivery shall be taken or dispatched from the site outside of the following hours; Mon-Fri 07:30 to 18:00, Saturday 08:00 to 13:00, nor anytime on Sundays or public holiday.

Reason: In the interests of ensuring that the construction works do not unacceptably impact upon the amenities of nearby residential occupiers.

9. Based upon the details already submitted, prior to commencement of development, a Landscape, Ecology and Arboricultural Management and Monitoring Plan (LEAMMP) shall be submitted to and approved in writing by the local planning authority. The LEAMMP shall include:

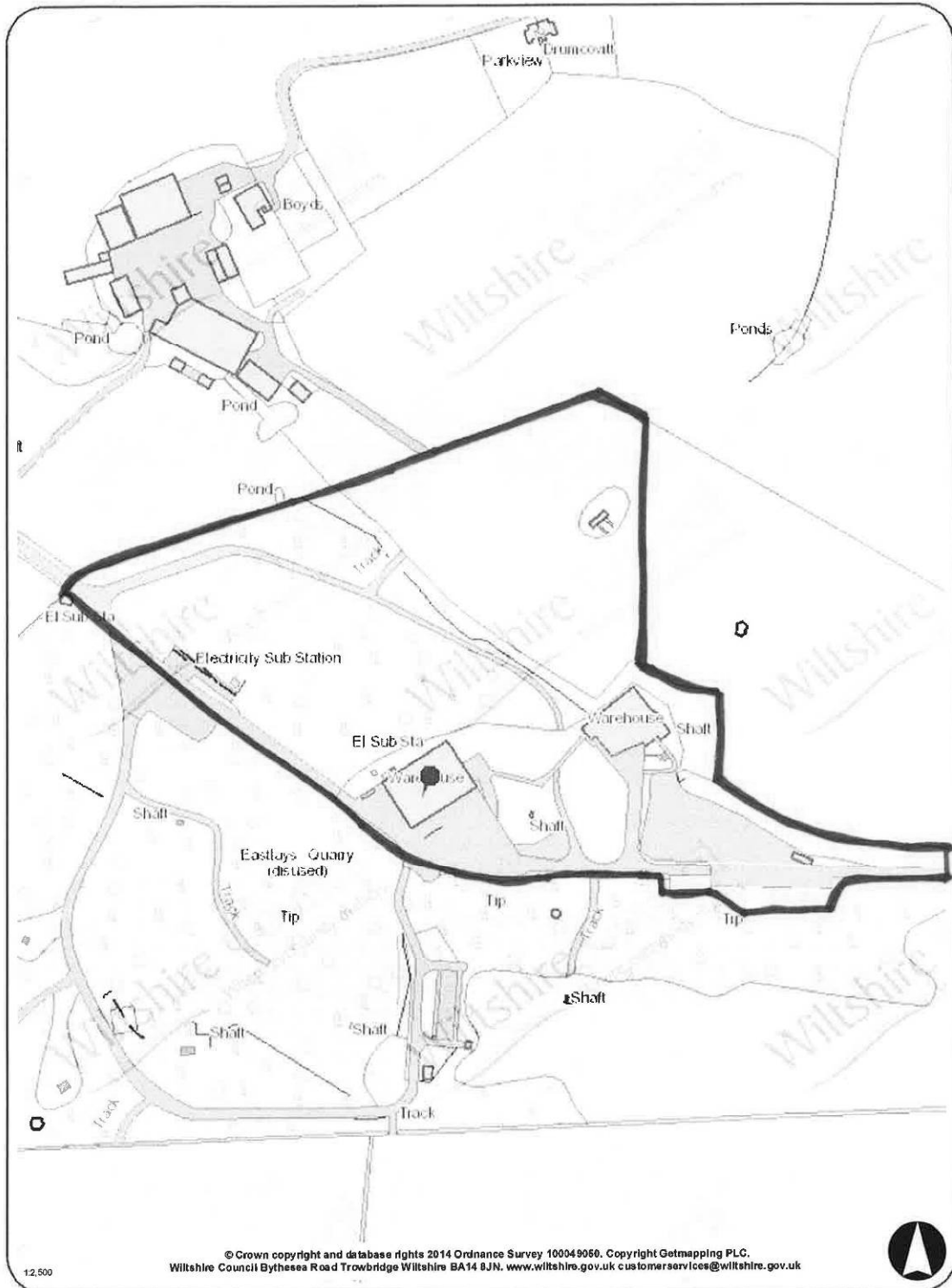
- a. details of any relevant up to date ecological surveys;
- b. drawings clearly showing all landscaped areas and semi-natural habitats including mature trees to be managed under the LEAMMP;
- c. any capital works such as habitat creation, tree / shrub planting, bat / bird boxes etc as informed by the submitted Ecological Impact Assessment;
- d. ongoing management prescriptions for semi-natural habitats and maintenance schedules for all landscaped areas clearly setting out timescales and responsibilities

- e. approach to management of all mature trees based on their ecological interest and an arboricultural protocol for carrying out tree works; and
- f. a schedule of ecological monitoring work and plan review.

Upon commencement of development all capital works shall be carried out to the agreed timescales and all areas identified in the LEAMMP shall be managed in full accordance with the agreed prescriptions in perpetuity. All monitoring reports shall also be made available to the local planning authority.

REASON: In the interests of securing a form of development that does not unnecessarily impact upon protected species and their habitat and so as to reach an optimal balance between visual screening and habitat compensation.

Additional ecology and landscaping conditions to be added



REPORT TO THE NORTHERN AREA PLANNING COMMITTEE

Date of Meeting	23 rd April 2014
Application Number	13/05668/VAR
Site Address	Bassett Down Golf Club Hay Lane Bassett Down Swindon SN4 9QP
Proposal	Variation of Condition 13 of 09/00079/COU
Applicant	Mr & Mrs Nutland
Town/Parish Council	LYDIARD TREGOZ
Ward	WOOTTON BASSETT EAST
Grid Ref	411031 180833
Type of application	Full Planning
Case Officer	Simon Smith

Reason for the application being considered by Committee

Under the Scheme of Delegation Specific to Planning, this application to vary the terms of a planning condition has been called to the Northern Area Committee by Councillor Groom to allow for consideration of the following issues: the impact of the altered condition upon the environment and highway.

1. Purpose of Report

To consider the above application and to recommend that condition 13 to planning permission 09/00079/COU BE VARIED.

The Lydiard Tregoz Parish Council object to the application.

Two (2) letters of objection have been received from separate households.

2. Report Summary

Submitted under s73 of the Town and Country Planning Act 1990 (As Amended), this application seeks a variation to condition 13 of planning permission 09/00079/COU.

Development, which an application under s.73 seeks to amend, will by definition, have already been judged to be acceptable in principle at an earlier date and a reconsideration of the acceptability of the proposal a whole is not normally necessary. Indeed, such an application should be determined in accordance with s.38(6) of the Planning and Compulsory Purchase Act 2004. Local Planning Authorities should, in making their

decisions, focus their attention on national or local policies or other material considerations which may have changed significantly since the original grant of permission, as well as the changes sought.

Specifically, consideration should focus upon the following:

- The meaning of condition 13 to permission 09/00079/COU
- The proposed extension of time allowed for completion of development
- Balance between duration of activity and impact of numbers of lorries on the road.
- Other matters

3. Site Description

The application relates to an existing golf driving range facility accessed from Hay Lane, which leads directly to junction 16 of the M4, some 1.0km to the north. The driving range is part of a consented 18 hole golf course complex, complete with clubhouse and parking area.

In planning policy terms, the entire site is part of the open countryside and although not covered by any specific landscape designation, the site can be plainly seen from the Salthrop escarpment to the North Wessex Downs AONB to the south.

4. Planning History

N/03/00898/SCR	Nine hole pay and play golf course (screening opinion)
N/03/02126/FUL	Change of use from agricultural to 9 hole golf course together with driving range and office buildings and parking area
N/04/03250/FUL	Alterations to existing vehicular access
N/04/03251/FUL	Proposed 20 bay covered driving range, kiosk with ancillary sales area, ball wash, lobby and toilets (together with associated parking area) (revision to 03.02126.FUL)
N/05/02327/S73A	Illumination of Ball Landing Area (Variation of Condition 6 of Planning Permission 04/03251/FUL)
N/06/02887/FCM	Re-profiling Of Golf Driving Range
N/07/07015/FCM	Re-Profiling Operation Involving Inert Waste (Subsoils)
N/08/02424/S73A	Illumination of Ball Landing Area (Variation of Condition 06 of Planning Permission 04/03251/FUL)
N/09/00079/COU	Change of Use of Agricultural Land to Golf Course
N/10/02321/S73A	Illumination of Ball Landing Area (Removal of Condition 1 of Planning Permission 08/02424/S73A)
N/10/04262/HRN	Removal of Hedgerow
N/11/02790/S73A	Variation of Condition 6 of N/10/02321/S73A, Relating to Light Measurement
N/11/01663/AGN	Construction of a Farm Track

4. The Proposal

This application is submitted under s73A of The Town and Country Planning Act 1990 seeking to vary the terms of condition 06 attached to planning permission 09/00079/COU. Condition 13 states:

Written notification of the date of commencement shall be sent to the Local Planning Authority within seven days of such commencement. In complete accordance with the submitted details, the deposit of waste and all earthworks required to form the approved development shall be completed no later than 30 months after the date of commencement confirmed by this condition. Within a period of a further 12 months (i) all plant and machinery shall be removed from the site (except which the local planning authority agrees in writing is required for future maintenance of the site); and (ii) the temporary access road shall be closed and the restored in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.

Reason: To enable the Council to control the development and monitor the site to ensure compliance with the planning permission.

Section 73A of the Act specifically gives provision for a formal application to be submitted to the Local Planning Authority which seeks to vary or remove a condition imposed on a planning permission.

5. Planning Policy

Policies C3, NE15, NE18 of the adopted North Wiltshire Local Plan 2011

National Planning Policy Framework.

6. Consultations

Lydiard Tregoz Parish Council – Object. See no reason to extend time for construction.

Council Highway Officer –

In light of the comments received from Swindon Borough Council and the fact that the road is not maintained by WC, raises no objections to the requested extension in time, subject to conditions.

Swindon Borough Council (in capacity of Local Highway Authority) –

“Swindon Borough Council would not raise an objection in principle to the variation of Condition 13 of permission N/09/00079/COU, we would comment as follows:

- Correspondence from Mr Bowley advises that in the time since the granting of planning permission, 90,000m³ of the required 282,300m³ on inert waste material has been transported to the site, leaving 192,300m³ to be imported. However, the slower than expected progress appears to be as a result of a combination of the financial down turn and the appointed contractor. We note that an alternative contractor has now been appointed and that this in turn had led to an increase in the*

amount of material being transported to the site. We therefore consider an extension of 4 years to be excessive and consider an extension of 2 years will be sufficient for the importing of the remaining inert waste material to be completed;

- We would welcome the offer in Mr Bowley's letter of 20 January 2014 for an additional restriction preventing access to the site at weekends, provided that the maximum permitted lorry movements of 141 heavy goods vehicle movements to and from the site on the remaining working days (Monday to Friday excluding Bank or Public Holidays) as permitted by Condition 14 to the original planning permission was not exceeded;*
- It appears as though Swindon Borough Council was not consulted on the original planning application. We would therefore wish to take this opportunity to protect the public highway and associated drainage under our control from any damage that may be caused by the continued transportation of inert waste material to the site. We would expect the developer to be responsible for reinstating the wearing course, verges, ditches, watercourses and drainage (including culvert(s)) to their condition prior to the commencement of the importation of material to the site, at their expense. Details of the reinstatement should be submitted to and agreed in writing by Swindon Borough Council; and*
- A site visit was undertaken this morning and on both approaches to the access to the site being used to import material, temporary MUD ON ROAD signs have been erected in the verge. More importantly there is evidence of mud on the public highway and no evidence of wheel washing facilities on site. This suggests that the contractor is not complying with the approved Construction Management Plan and they should be informed of this as a matter of urgency."*

Highways Agency – No objection.

Environment Agency – No objection. Confirmation received that the Permit for the deposition of waste materials granted by the EA for this site does specify the acceptance and checking of material (under condition 2.3 of the Permit). It is also clarified that the Permit has now been "transferred" to the current operator (Earthline). Accordingly, the EA have confirmed that this would effectively discharge the original imposed planning condition which required the quality control of waste materials received at the site.

(Note: It is recommended that the original condition be modified so as to make reference to the Environmental Permit already granted by the EA. See condition 05.)

Council Minerals and Waste Team –

No comments. Notes that the consideration is a matter of weighing the impacts of traffic, noise disturbance etc. against the benefits of finishing the development earlier rather than later.

Council Ecologist -

"The site supports a population of great crested newt and the original proposals were permitted on the basis of an agreed mitigation strategy. That strategy would have been approved on the basis of a temporary impact, with habitats restored within the approved 30 month life span of the original permission. I cannot currently access the documentation for that permission on the website, and it is not clear from the submitted information which areas of the site are yet completed / under construction / still developed. The mitigation strategy

for the site will need to be updated, confirming the phasing for the site; I would suggest that given the considerable proposed extension to the permission impacts will need to be mitigation by phasing and prioritising the restoration of areas closest to breeding ponds earlier in the construction period, preferably during winter periods. I would therefore request that the mitigation strategy for the site be revised, resubmitted and approved before consenting the extension to the permission.”

7. Publicity

Two (2) letters of objection received. Note: multiple letters from same objector household. Main issues raised:

- Application is not valid.
- Road and verge is being damaged as a result of the HGVs accessing the site.
- HGVs shake foundations of houses they pass, causing damage..
- Initial application presented a knowing understatement of the length of time it would take to complete – if presented in the manner now being done so, greater objection would have been generated.
- Development is merely a huge tipping exercise
- Noise and disturbance from traffic movements cause an amenity issue and living conditions of neighbours are intolerable.
- Drainage/culvert of road has been damaged as a result of vehicles.

8. Planning Considerations

The meaning of condition 13 to permission 09/00079/COU

Condition 13 was imposed upon the 2009 permission to ensure the Council would retain a degree of control and certainty over the duration of the construction of the golf course, which, after all, does involve the importation of a substantial amount of earth. Indeed, it was anticipated at the time of the application being determined that development would necessitate the importation of some 282,000m³ of inert (stable, non-hazardous) fill material.

As required by condition 13, in June 2011 the Council received notification of the intention to commence works, meaning a projected completion date of December 2013 (ie. 30 months later).

However, it has been suggested by the applicant that the rate of progress was slower than anticipated, with only some 30,000m³ of material having being brought to the site by June 2013. Since that time, there has been an effort to increase the rate of importation, with a total of 90,000m³ of the required 282,300m³ on inert waste material having been transported to the site, leaving 192,300m³ to be imported.

It is therefore evident that the golf course will not be complete before the originally envisaged 30 months allowed by the 2009 permission. Indeed, that 30 month period has already expired, being December 2013.

The applicant's agent suggests that at present, the new golf course is about one third complete.

The proposed extension of time allowed for completion of development

Some 192,300m³ of inert fill remains to be imported in order to finish the consented golf course. The slower than expected progress appears to be as a result of a combination of the financial down turn and the appointed contractor.

Following the appointment of a different contractor, the applicant estimates the remaining importation will require an additional 48 months (ie. no later than 31st December 2017), allowing for any potential fluctuations in the building sector, being the main source of such inert fill.

Following consideration of the comments of Swindon Borough Council (as the authority responsible for the upkeep of the B4005 Hay Lane, the main route of construction traffic from the M4), the applicant has signalled their willingness to consider an additional 3 year time frame, as opposed to the 4 years applied for, together with a commitment to not tip on Saturdays.

The application does not seek any change to the total quantum of material permitted in 2009, that being 282,300m³.

The application does not seek any change to the Construction management Plan agreed under conditions 05 and 06 of the 2009 permission, which covers matters such as delivery hours, the routing of construction traffic etc.

Equally, the application does not seek any alteration to the ceiling of lorry movements set by condition 14 of the 2009 planning permission, that being 141 HGV movements to and from the site each day.

Balance between duration of activity and impact of numbers of lorries on the road.

The application requires a consideration of the trade-off between the duration of the construction phase and attendant impact associated with the numbers of lorries using Hay Lane. A shorter construction period naturally resulting in more intensive activity and frequency of lorry movements and, perhaps, greater impact upon living conditions of local residents and damage to the road surface. Equally, a longer construction period may be regarded as extending those impacts over a longer period of time.

Clearly, if the development is continued over the period to the end of 2017, the average number of lorries per day would be notably less than the maximum allowed by condition 14 of the 2009 permission. A more intensive development will obviously increase that daily number of lorries. The applicant does, however, suggest that this latter scenario can still be achieved within the 141 daily limit set by condition 14.

The applicant has suggested that the tipping rate during autumn 2013 was resulting in an average of around 45 lorry visits (90 movements) per day to the site, with no set pattern to the timing of these movements through the day. Objectors to the application have, however, suggested that vehicle numbers have exceeded this, thereby contravening the terms set out within the agreed Construction management Plan.

It is advised that it would be unreasonable to refuse to extend the period of time to complete the development, since that would also effectively remove the planning permission for the golf course in its entirety. Whilst the additional 4 years applied for would result in the maximum reduction in vehicle movements, it would also extend the construction period by 25%. As a compromise between competing factors, an extension of 3 years is considered reasonable.

Damage to Hay Lane

Local residents have suggested that the development has resulted in damage to the B4005 public highway and in particular, damage to verges and drainage culverts, causing recent surface water flooding.

Whilst the B4005 Hay Lane may well be potholed and in need of repair like many other roads, there is, unfortunately, no available evidence that the permitted development has been the direct cause of such damage. Nevertheless, Swindon BC as the authority responsible for the upkeep of the B4005 have identified that they will certainly expect the developer to be responsible for reinstating the wearing course, verges, ditches, watercourses and drainage (including culvert(s)) to their condition prior to the commencement of the importation of material to the site.

In the context of an application that seeks an extension to the period of time for the completion of a development that necessitates substantial amount of HGV traffic, in the event of a new planning permission being granted, it is considered reasonable to impose an additional condition that requires a pre and post construction survey of the B4005 between the M4 junction and the site entrance together with a scheme for the repair of any damage identified and attributable to the construction of the development, to be carried out at the expense of the applicant.

Other matters

Swindon Borough Council have noted in their comments that during a site visit to assess the access to the site being used to import material, temporary MUD ON ROAD signs have been erected in the verge. There was also evidence of mud of the public highway and no evidence of wheel washing facilities on site, suggesting that the contractor is not complying with the approved Construction Management Plan under conditions 05 and 06 of the 2009 permission. If this is the case, it should be regarded as a separate matter to the consideration of this planning application and pursued as a breach of condition.

The Council's Ecologist has observed that the lengthened time for completion of development may, to some extent, invalidate the commitments set out within the approved Landscape and Ecological Management Plan (condition 04 of the 2009 permission). The Ecologist therefore suggests that the strategy for the site should be updated, confirming the new phasing for the site and prioritising the restoration of areas closest to breeding ponds earlier in the construction period, preferably during winter periods.

The previous Landscape and Ecological Management Plan was submitted and agreed prior to the commencement of development. Since development has already commenced and is well under way under the auspices of the agreed Management Plan, it is not thought reasonable to require an updated Plan before the determination of this application, as requested by the Ecologist. Rather, it is thought logical to require the submission of an updated Landscape and Ecological Management Plan within a relatively short timeframe after the grant of any new planning permission. Condition 04 of the permission should be amended appropriately.

10. Conclusion

It is considered that the request to extend the time limit for completion of the permitted golf course is reasonable. The applicant has agreed to a reduction in that requested extension

of time to 3 years (rather than the 4 years requested) and it is considered that such a time frame offers the best compromise between intensity of lorry movements and duration of overall construction phase. The offer of the applicant to also amend condition 10 of the 2009 permission relating to the hours of operation to construct the golf course to exclude Saturdays is welcomed, and should be regarded as a material planning consideration in determining this application.

It is concluded that the wording of condition 13 may be varied to ensure the deposit of waste and all earthworks on the site is completed no later than 36 months (3 years) after the 31st December 2013 date originally specified for completion, that being 31st December 2016.

RECOMMENDATION:

That planning permission be GRANTED subject to conditions imposed under 09/00079/COU together with minor amendments to wording of conditions so as to reflect the fact that development has already commenced, including conditions 03 (Ecology), 08 (hours of operation), 12 (duration of construction phase) and additional condition 14 (survey of highway damage), to read as follows :

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

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

- 02 Development shall take place in complete accordance with the approved surface water drainage scheme for the site (prepared by DJP Consulting Engineers, April 2009), which was based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development. In particular, run off from the site following development to not exceed Greenfield rates calculated on page 2 of the letter from DJP Structural and Civil Engineers dated 21 October 2009

Reason: To prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity and ensure future maintenance of these.

- 03 Within 3 months of the date of this planning permission, an updated Landscape and Ecological Management Plan, including long-term design objectives, management responsibilities and maintenance schedules for all landscaped areas shall be submitted to and approved in writing by the Local Planning authority. The Landscape Management Plan shall be carried out as approved and any subsequent variations shall be agreed in writing by the Local Planning authority. The Scheme shall include the following elements:

- a. design details of all water features to ensure they are designed to maximise the benefits for biodiversity. Lakes should have significant areas of shallows and be planted with native wetland plants
- b. suitably sized buffer strips of vegetation left between the water features and the main fairways. These strips should be left to develop with limited management. They will provide protection for the water features from intensive management such as fertilise spraying
- c. drainage channels and SUDS should be designed to maximise their benefits for biodiversity
- d. chemical treatments for green/fairways should be limited and sufficient distances from water features, should always be maintained during these operations to prevent them being impacted by direct application or spray drift.

Reason: To ensure protection of wildlife and supporting habitat and secure opportunities for the enhancement of the nature conservation value of the site in line with national planning policy

- 04 The development hereby permitted shall be carried out in complete accordance with the approved Construction and Environmental Management Plan (prepared by MJ Church, dated 13th July 2011).

Reason: To minimise the impact on construction vehicles on Junction 16 of the M4

- 05 The importation of inert fill to the site shall take place in complete accordance with the Environmental Permit (permit number: EPR/AB3804CL), which transferred to the current operator (Earthline) by the Environment Agency on 13th October 2013.

Reason: To safeguard the amenities of local residents and the wider environment during the construction phase.

- 06 No materials other than inert waste and topsoil shall be imported into and deposited on the site.

Reason: To control the type of waste imported.

- 07 There shall be no screening or processing of inert waste material on the site at any time.

Reason: To safeguard the amenities of local residents and the wider environment during the construction phase.

- 08 No operations relating the formation of the course, including HGVs entering and leaving the site, shall take place except between the following times:

07.30 – 17.00 Mondays to Fridays

No operations related to the formation of the course shall take place on Saturdays, Sundays, Bank or Public Holidays.

Reason: To safeguard the amenities of local residents and the wider environment during the construction phase.

- 09 All vehicles, plant and machinery operated within the site shall be maintained in accordance with the manufacturer's specification at all times and shall be fitted with, and use, effective silencers. No reversing beepers or other means of warning of reversing vehicles shall be fixed to, or used on, any mobile site plant other than white noise alarms or beepers where noise levels adjust automatically to surrounding noise levels.

Reason: To safeguard the amenities of local residents and the wider environment during the construction phase.

- 10 During the permitted working hours the freefield equivalent continuous noise level (LAeq, 1 hour) for the period due to normal waste importing and depositing operations shall not exceed 55dB as recorded at the boundary of any inhabited property.

Reason: To safeguard the amenities of local residents and the wider environment during the construction phase

- 11 The deposit of waste and all earthworks required to form the approved development shall be completed no later than 31st December 2016. Within a period of a further 12 months (i) all plant and machinery shall be removed from the site (except which the local planning authority agrees in writing is required for future maintenance of the site); and (ii) the temporary access road shall be closed and the restored in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.

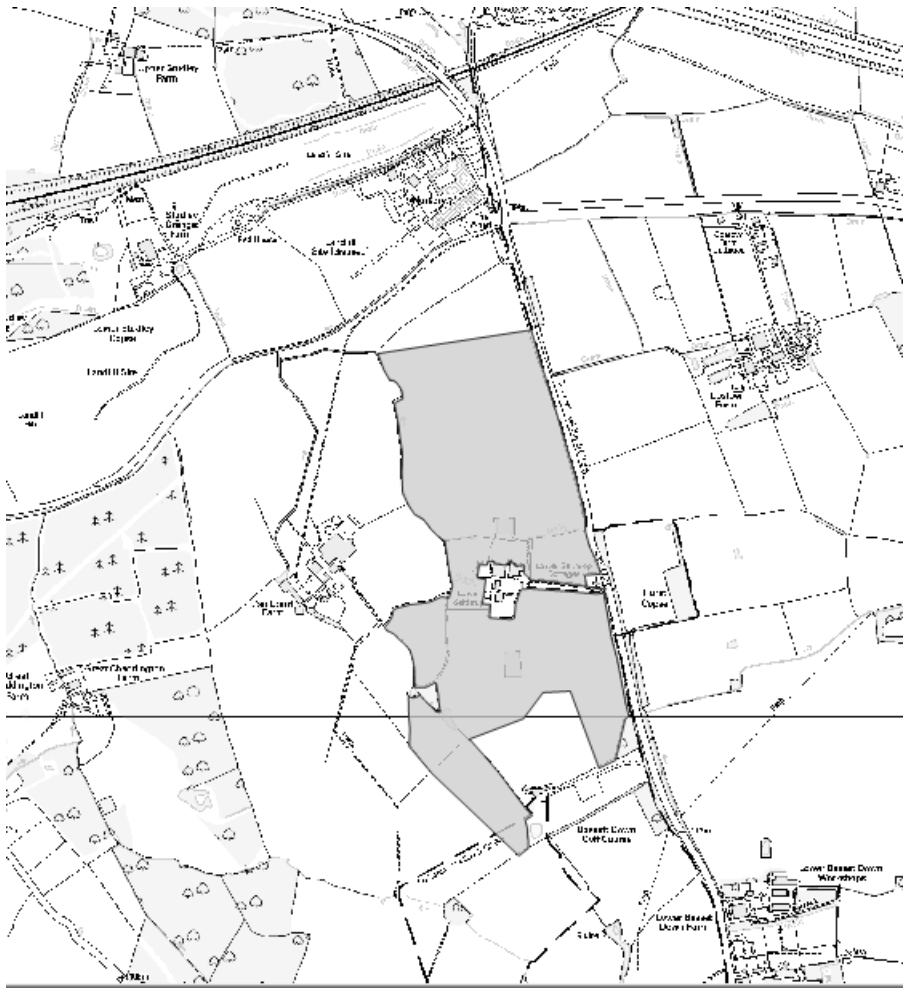
Reason: To enable the Council to control the development and monitor the site to ensure compliance with the planning permission.

- 12 In complete accordance with the submitted details, no more than 141 heavy goods vehicle movements to and from the site shall occur on any working day.

Reason: To limit the volumes of traffic in the interests of the amenity of residents on and near the approaches to the site.

- 13 Within 2 months of the date of this planning permission, a photographic survey of Hay Lane between the M4 junction and the site entrance shall be carried out. Upon completion of the construction phases, a post construction survey shall be carried out at the same locations. Details and results of both before and after survey shall have been submitted to the Local Planning Authority (who will liaise with Swindon Borough Council as the Highway Authority) within 3 months of the first use or occupation of the development. Those submitted details and results shall be accompanied by a plan and timing schedule for the repair of any damage identified and attributable to the construction of the development, to be carried out at the expense of the applicant, which shall have been agreed in writing with the Local Planning Authority beforehand.

Reason: So as to secure a scheme for the repair of the public highway following completion of substantive construction works.



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REPORT TO THE NORTH AREA HUB PLANNING COMMITTEE

Date of Meeting	23rd April 2014
Application Number	N/13/00958/S73A
Site Address	Oaksey Park Lowfield farm Oaksey Wiltshire
Proposal	Removal of Conditions 8, 9 and 10 imposed on application reference 10/03612/S73A which varied condition No 7 of 02/01841/FUL and appeal APP/J3910/A/04/1145607, allowing the unrestricted residential occupancy of units 12 to 19 (8 in total)
Applicant	Oaksey Park Ltd
Town/Parish Council	OAKSEY
Grid Ref	399464 194156
Type of application	Full Planning
Case Officer	Lee Burman/Brian Taylor

Reason for the application being considered by Committee

The application has been called in for Committee consideration by Councillor Chuck Berry to allow assessment of the principle and sustainability of the development and implication for other similar proposals and facilities.

The application was deferred at the meeting of 12th March to enable Officers to seek additional information and provide additional comment. The application was then withdrawn from the Agenda of 2nd April 2014 to enable publication of a redacted version of the "Chesterton Humberts" Report. The main body of the report remains as presented on 12th March, with an additional section headed 'Further comments to Meeting of 2nd and 23rd April' added immediately prior to the 'Recommendation'. The Officers conclusions and recommendations remain unchanged.

1. Purpose of Report

To recommend that authority be delegated to the Area Development Manager to grant planning permission subject to the signing of a Section 106 agreement.

2. Report Summary

The main issues in the consideration of this application are:-

the viability of the existing units of accommodation with the currently attached conditions restricting the scope and nature of the residential use and occupancy i.e. as Holiday let accommodation linked to the adjacent Golf Course;

And whether or not the properties have been marketed appropriately and at valuations

reflecting the restrictive occupancy conditions;

The principles of the development proposal.

3. Site Description

The site is located within the open countryside to the east of the village of Oaksey. The application relates to a development of 25 semi detached and detached structures located adjacent a 9 hole golf course and its supporting clubhouse facility. The structures are modern in design two storey buildings built utilising render and timber with substantive glazing elements. The structures are surrounded by shared amenity spaces with new planting separating the properties from the golf course. The structures are residential in character but occupancy is restricted to holiday lets. Similarly there is established mature planting to the northern boundary separating the site and its access road from adjoin open countryside. The properties have ancillary group parking areas and the access road to the site runs from Wick Road, adjacent the golf course itself though the golf course car park and past the clubhouse facility. The land rises to the west and in the direction of the villages and adjacent unmaintained scrub land is situated against the western boundary of the site, albeit this land benefits from an extant consent for a final phase of the development which is as yet unbuilt.

4. Planning History

89/03470/F	Change of Use to residential holiday and staff accommodation of agricultural buildings. Reconstruction of Guest Lounge. Alts To Access and Driveway. Approved
02/01841/FUL	Erection Of 18 No 2 & 3 Bed Holiday Lodges And 1 No Bunkhouse With Covered Parking (1 No Space/Lodge) And Implement Shed, Workshop, Office And Reception Area And Associated Access Approved
03/02072/S73A	Variation of conditions attached to 89/03470/F (Condition 5) and 02/01841/FUL (Condition 7) Appeal allowed conditions varied
10/03612/S73A	Variation of Condition 7 of 02/01841/FUL & 1 of APP/J3910/A/04/1145607 - Relating to Residential Occupancy Relates to units: 3, 5, 6, 8 and 10 - 19 inclusive. Approved
11/02036	Variation of Condition 1 of APP/J3910/A/04/1145607 - Relating to Residential Occupancy (Original Variation of Condition 7 of 02/01841/FUL) Relates to unit 2. Approved
12/00034	Variation of Condition 1 of APP/J3910/A/04/1145607 - Relating to Residential Occupancy (Original Variation of Condition 7 of 02/01841/FUL).Relates to unit 4. Approved.
12/00050	Variation of Condition 1 of APP/J3910/A/04/1145607 - Relating to Residential Occupancy (Original Variation of Condition 7 of 02/01841/FUL). Relates to unit 7. Approved.

The above is a summary list of the historic applications at the site that are relevant and pertinent to the current proposals. It is not intended to be a definitive list of every single application at this site as this site history is very extensive and a great many of the applications are of no direct relevance. The applications and decisions referred to above are discussed in further detail below.

5. The Proposal

The application proposes the removal of conditions 8, 9 & 10 of Planning permission 10/03612/S73A and variation of condition 7 of 02/01841/FUL and Condition 1 attached to appeal decision APP/J3910/A04/1145607 – Relating to residential occupancy. The conditions are as follows:-

10/03612/S73A

8 Notwithstanding the Town and Country Planning (Use Classes) Order 1987 and the Use Classes (Amendment) Order 2005 (or any Order revoking and re-enacting those Orders, with or without modification), the building(s) hereby permitted shall be used for holiday accommodation only and for no other purpose.

REASON :- This site is in a position where the Local Planning Authority, having regard to the reasonable standards of residential amenity, access, and planning policies pertaining to the area, would not permit permanent residential accommodation.

POLICY: C3 of the adopted North Wiltshire Local Plan 2011, RLT9 of the Wiltshire and Swindon Structure Plan 2016 and the Good Practice Guide on Planning for Tourism

9 The building(s) hereby permitted shall not be occupied as a persons' sole or main place or residence.

REASON:- This site is in a position where the Local Planning Authority, having regard to the reasonable standards of residential amenity, access, and planning policies pertaining to the area, would not permit permanent residential accommodation.

POLICY: C3 of the adopted North Wiltshire Local Plan 2011, RLT9 of the Wiltshire and Swindon Structure Plan 2016 and the Good Practice Guide on Planning for Tourism

10 The owners / operators of the site shall maintain an up-to-date register of the names of all owners / occupiers of individual units identified in red upon drawing No. JC/001/2 and of their main home addresses, and shall make this information available at all reasonable times to the local planning authority.

REASON:- This site is in a position where the Local Planning Authority, having regard to the reasonable standards of residential amenity, access, and planning policies pertaining to the area, would not permit permanent residential accommodation.

POLICY: C3 of the adopted North Wiltshire Local Plan 2011, RLT9 of the Wiltshire and Swindon Structure Plan 2016 and the Good Practice Guide on Planning for Tourism

02/01841/FUL

7. The development shall be used only as holiday accommodation and no person shall be in occupation for more than 42 days in any calendar year.

Reason: To ensure that the development is not used as permanent accommodation or as dwellings.

APP/J3910/A04/1145607

1. The buildings shall not be occupied other than for holiday accommodation, and shall not be occupied from 6 January to 5 February inclusive in any year, and shall at no time be used for permanent residential accommodation.

The proposal in the original application related to the 20 remaining units of the site that had not already been sold to private ownership with the relevant restrictive conditions attached. This application and the description of development was varied by the applicant as follows:-

Removal of Conditions 8, 9 and 10 imposed on application reference 10/03612/S73A which varied condition No 7 of 02/01841/FUL and appeal APP/J3910/A/04/1145607, allowing the unrestricted residential occupancy of units 12 to 19 (8 in total)

It is this revised proposal – removal of the restrictive conditions on 8 units that is now before the Council.

6. Planning Policy

National Planning Policy Framework

North Wiltshire Local Plan 2016
C2 Community Infrastructure
C3 Development Control
CF3 Provision of Open Space

Wiltshire Core Strategy Submission Draft

It should be noted that there are no specific policies in any adopted planning policy document that directly address the variation or removal of planning conditions restricting residential occupancy to holiday accommodation use to allow unfettered residential use.

7. Consultations

The Council instructed a firm of Chartered Surveyors to assess the Market Viability Report submitted with the application. This process and the response received is referred to in greater detail below.

The Council extended the consultation period to allow for representations to be submitted following the receipt by the Council of the independent assessment of the viability report. Whilst the report was not published the conclusions were referenced by the case officer in discussions with consultees such as the Parish Council.

Highways Officers raised no objections to the proposals.

Education Officers have identified a requirement for secondary school place provision arising from the development.

Environment Services (Open Spaces) has identified a requirement for children's playspace

provision arising from the development.

Waste Team has identified a requirement for provision of waste collection facilities.

Oaksey Parish Council has objected to the application in respect of:

- The site is an inappropriate location for residential use, poor access, in the open countryside outside the defined village
- The development is out of scale with the landscape
- There is no evidence of housing need in the village
- The proposal makes no provision for “development gain” to contribute to the local community
- Issues of business viability are the result of other factors than the local property market including the business operator and the financing of the development
- A different operator is likely to succeed and transform the business potential
- The property market at the time of the review has been distorted by the recession and the business being in receivership
- The implementation of the existing holiday let conditions has poor suggesting lack of compliance – Wiltshire council has started enforcement proceedings
- A Neighbourhood Plan for Oaksey is under preparation consent for residential would render proposals for housing in the village redundant

Subsequent to the revision of the description of development a further 21 day period of consultation was undertaken. All parties were notified of the revised application.

Education officers have confirmed that the revised proposals generate a requirement for Secondary School places and a financial contribution is sought in this regard.

Environmental Services (Open Spaces) identified that the 8 units alone did not generate an open space requirement that could be met through on site provision and that given the site location off site financial contributions to enhanced provisions for children’s play space elsewhere could not be justified. However should the remaining 12 units also be the subject of proposals to remove restrictive occupancy conditions the on-site playspace provision requirement would be justified.

8. Publicity

The application has been advertised by press advert, site notice and through neighbour notification.

29 letters of objection have been received from local residents raising concerns in respect of:

- The Holiday Let units are a viable business operation under the right management;
- The Holiday Let units were permitted designed and constructed in relation to standards inappropriate to permanent residential accommodation;
- The original property purchase was not conducted on a sound basis
- The Oaksey Park facility only has two competitors (Windrush Lakes and Spring Lake, these facilities are run successfully and are viable
- The locality has a greater range of offer for tourism than referenced in the submitted reports
- The current facility is poorly maintained and the lack of finance available for full maintenance should not be a sound reason for removing the holiday let restrictions
- The marketing of the properties and demand has been affected by the poor quality maintenance at the site
- Inadequate parking provision and traffic generation
- Inadequate design
- Inadequate services for the residential use of the site e.g. waste, schools
- Inadequate consultation with existing owners at the site

- All properties at the site should be included in the decision/application
- Inconsistencies within the submitted supporting financial information
- The site is an inappropriate location for residential use, poor access, in the open countryside outside the defined village
- The development is out of scale with the landscape
- There is no evidence of housing need in the village
- Housing need in the village is for affordable housing
- The independent report commissioned by the Council should be made publicly available
- Sets a precedent across Wiltshire

Following the revision to the description of development a further 21 day period of consultation was undertaken including press notices, neighbour notifications and notifications to all parties having made representations on the original application proposals. Since that time four representations have been received raising objections to the proposed removal of the conditions. Separate correspondence has also been forwarded to the case officer from a further interested party. The representations identify that:-

- The revised proposals are not supported additional supporting documentation to explain and justify the revised scheme proposals
- Consultations with interested parties including the owners of the 5 properties already sold at the site have been inadequate
- If the restrictive conditions are removed on these properties that should also apply to the 5 properties already sold to private ownership
- The Council has commissioned its own assessment of the submitted viability report and this assessment should be made available to interested parties for review and comment
- Parking demand at the site is increasing indicating increased occupancy periods
- The submitted viability assessment is inadequate and does not demonstrate that the properties are unviable as holiday let units
- The site is an unsustainable location contrary to adopted policies for unrestricted residential development and the properties should remain as holiday lets as originally permitted

9. Planning Considerations

Background

The following assessment of the application is on the basis of the removal of restrictive conditions relating to 8 properties at the site. This position has arisen as a consequence of confusion in the independent assessment of the marketing and viability of original scheme proposals commissioned by the Council. The original instruction issued related to the 20 units however following liaison with the applicant, site meetings and provision of marketing and financial information by the applicant the independent surveyors understood that the proposal related to 8 units only. Their report was provided on that basis. Officers identified this confusion when preparing a report to Committee on the original scheme proposals. Further consultation with the independent surveyors assessing the proposals was undertaken and a revised report relating to the whole 20 units was prepared and submitted. This report concluded that the business as a going concern i.e. sold as a single entity was unviable. The assessment however also concluded that insufficient marketing for the whole 20 units had been undertaken and further marketing was therefore required to demonstrate that there was no viable demand for all 20 units with the restrictive conditions as separate individual properties.

As is discussed in more detail below the earlier version of the report relating to 8 units also concluded that the business as a going concern/single entity was not viable; also that the 8 individual units had been adequately marketed at reduced market valuations reflective of the restrictive conditions and that there was no proceedable interest in these properties.

The applicant was made aware of the findings of the independent assessor of both reports and subsequently revised the scheme proposals to relate to the relevant 8 properties only. The

independent assessor has subsequently resubmitted this original report in respect of the revised scheme proposals.

Principle

The principle of residential development in this location is not available for consideration as part of this application. The proposal is merely a variation and removal of conditions restricting occupancy of 8 holiday let accommodation units that are already built. The proposal is not for the erection of new residential development and as such the principle of a residential development in this location and the sustainability of such a development proposal is not available for consideration. The issue for assessment is specific to this site and this development in that the application asserts that the development is not a viable concern, that it has been marketed at reasonable valuation and there is no interest in it as a going concern. Further that the individual properties have been marketed at reduced valuations to reflect the restrictive occupancy conditions attached and that no proceedable interest has been identified. These matters are discussed in detail below but the relevant issue here is that these are material circumstances that are specific to this site only. These types of financial considerations are solely material to each individual site and the form and type of development that has been constructed and the circumstances relevant to the locality will inform such matters and will vary from site to site. As such they do not define any standard or establish any form of precedent that must be adhered to and which would restrict the determination of other such proposals on other sites. Other such holiday let facilities in other locations would need to be assessed on their own individual merits and site circumstances. It is also important to note in this context that the current financial climate is a relevant material factor. This is referenced further below but it should be noted that the economy has worsened considerably since the initial permissions were granted and development took place. These are changed material circumstances in this instance which may not always be prevalent during the future. This is specifically relevant here in respect of the availability of financing from banks for purchase of such restrictive occupancy properties and the viability of fairly small scale holiday let accommodation facilities.

Furthermore the Council in determining any application is duty bound to act reasonably and determine the applications that are submitted on the basis of relevant material considerations and circumstances. As such it is not appropriate or acceptable for any Local Planning Authority to determine an application on the basis of what may possibly happen in the future or what their position may have been with respect to a theoretical situation i.e. a wholly new proposal for residential development. The Council's decision must be defensible and justifiable in the event of an appeal. Refusal on the grounds that a new residential development would be unsustainable in this location would not meet this test.

In terms of the residential conditions that would result from an unrestricted residential occupancy arrangement it is considered that the site layout affords a reasonable level of residential amenity. It is certainly not considered to be the case that the arrangement is so sub-standard in terms of the amenities of future occupants that all other material considerations are overridden and consent should be refused. It will however be necessary to remove certain permitted development rights by condition to ensure control over this situation.

The Parish Council has previously objected that work taking place on the Neighbourhood Plan for Oaksey in respect of housing will be rendered redundant by approval of this application. This application is not a proposal for new residential development and cannot be assessed in those terms. The Wiltshire Core Strategy and the strategy for housing policies in Neighbourhood Plans (Policy CP2 is relevant) are framed as approximate requirements and clearly envisage that Neighbourhood Plans have the scope to propose additional housing over the minimum requirements identified. The Core Strategy Examination Inspector has also published an initial letter to the Council dated 2/12/13 which sets out his assessment that the housing requirement should be increased. As such the position is subject to amendment and work is ongoing. The preparation and evolution of Neighbourhood Plans is a part of that process. The Parish Council also refers to Wiltshire Council Enforcement Action in respect of

breaches of the Holiday Let conditions. There are two investigations underway and no formal action taken. One relates to the use of units 1 and 9 both of which have been sold separately and are not the subject of this application. The second investigation relates to the failure to maintain a guest register. It is not considered that this matter is so significant as to affect the consideration of this application in and of itself. Indeed it has yet to be demonstrated that this is in fact the case.

History & Conditions

In this instance the site history demonstrates that the Council has sought to ensure as far as it was able that the development would not lead to an unfettered residential development in this location, whilst also being supportive of a business venture that also provided leisure facilities within the local community. To this end permissions were issued but with restrictive conditions in place e.g.

N.89.3470.F

5 Each holiday unit (numbered 1-6 on the plans hereby approved) shall only be occupied by any single party for a period not exceeding 3 calendar months in any one period of 12 calendar months.

Reason: To restrict the use of the units to holiday accommodation. The site lies in an area where new dwellings are not normally permitted.

N/02/01841/FUL

7 The development shall only be used as holiday accommodation and no person shall be in occupation for more than 42 days in any calendar year.

Reason: To ensure that the development is not used as permanent accommodation or as dwellings.

These conditions were the subject of a subsequent application for variation to reduce the level of restriction and extend the period of use which was also refused by the Council. This decision was appealed and that appeal was allowed resulting in the following condition be applied:-

The buildings shall not be occupied other than for holiday accommodation, and shall not be occupied from 6 January to 5 February inclusive in any year, and shall at no time be used for permanent residential accommodation.

This condition was then also subject of four separate applications for variation of the terms as it related to separate units at the site all of which were approved. The applications also sought to vary condition 7 attached to 02/01841/FUL.

These resulted in conditions 8, 9 and 10 as referenced in section 5 above. Condition 8 is of specific relevance in this regard as restricts the use to holiday accommodation but places no time limit in this regard.

Whilst this approach to the site could be viewed as an attempt to progressively remove restrictions it could also be argued that both parties have sought to achieve a balanced approach to the occupation of the site and to apply conditions that maximise the possibility for the facility to be used as originally intended – holiday accommodation. The ongoing change to the terms of the restriction being evidence of the need to have greater flexibility in the terms of the holiday use to maximise the desirability of the location and broaden the market sector. Effectively representing an effort by the applicants and owner of the site to maintain a viable business. The fact is that the original conditions applied were deemed to be unreasonably restrictive by an Inspector considering the matter and the appeal against that restrictive approach was allowed. The Council has subsequently sought to maintain its support for the holiday accommodation business. That earlier appeal decision remains a material planning

consideration and is of increasing relevance given the changed economic circumstances and the submitted market viability appraisal.

It is also important to note that the applicant has discharged several of the other conditions relevant to the site and that should consent be granted these could not be reimposed.

Market Viability Appraisal

The applicant has submitted a Market Viability Report prepared by Strutt and Parker Chartered Surveyors. The report was prepared in behalf of administrators Price Waterhouse Cooper after Oaksey Park Limited was forced into administration. The purpose of the report as per the Instruction to Strutt and Parker was to assess the viability of and market for the Holiday Accommodation and the market for and viability of an alternative unfettered residential use for the site. In respect of the Holiday Accommodation the report concludes that:-

- Trading at a loss for the last three years
- Hobbies have pulled out as commercially unviable.
- Price Waterhouse Cooper state that holiday use is also unviable with no foreseeable prospect of future growth.
- Strong competition, particularly from Cotswold Water Park

On this basis it concludes that the use is commercially unviable.

With respect to a use as unfettered residential accommodation the report identifies that this is a good long term investment with steady demand and that it would be commercially viable.

The Council sought independent assessment of this submitted Market Viability report. This report has not been published as it contains commercially sensitive and personal financial information. This approach has been disputed by several interested parties and local residents. A great deal of such information and assessments submitted with a wide range of planning applications throughout the country are treated in this manner. This is not unusual and is indeed a quite common occurrence, examples include the change of use of public houses to residential and their related viability reports and assessments. The submitted market viability report of the applicant has been made publicly available for review and comment however and a number of objectors have made their submissions in that regard as summarised above and in further detail below.

Initially the Case Officer sought the input of the Council's Estates Department but it was identified that the issues at hand, including valuations of and the market for Holiday let accommodation, were areas of specialist knowledge and expertise which was not available within the Council. As the case officer sought independent specialist assessment on behalf of the Council and instructed a private firm of Chartered Surveyors – Chesterton Humberts. The instruction was specifically to assess the applicant's submitted market viability report and to consider whether or not this was reasonable and sound in respect of the removal of conditions for the 20 units. As noted above subsequent discussions between the applicants surveyors' and Chesterton Humberts resulted in some confusion and a partial assessment relating the marketing of individual units (8 in total was completed). In so doing Chesterton Humberts considered both the viability of disposal of the 20 units as a going concern; also the viability of the sale of 8 individual units with the relevant restrictive conditions in place. This assessment also considered the marketing that took place and the valuations placed on the 8 units.

In undertaking the initial assessment Chesterton Humberts sought and received additional detailed information as to the marketing process and results that had taken place from the applicant.

The resubmitted independent assessment undertaken on behalf of the Council concludes that:-

- the marketing was reasonable and appropriate in relation to the 8 properties that are the subject of the current application;
- the valuations placed on the units individually was reasonable and appropriate (subject to caveat discussed below);
- the development as a whole going concern is unviable given the offer available and competition in the locality;
- the 8 units cannot be sold individually with the restrictive conditions in place as finance is not available from the banks.

With respect to the operation as whole no offers were identified in the recent marketing process. With respect to the sale of individual units offers were initially received however when these were investigated for progression it became apparent that the individuals making the offers could not obtain financing from their banks and as such were not “proceedable”.

Chesterton Humberts in their report do identify that with respect to the marketing and viability appraisal of the facility as a whole going concern the associated costs were significant. Indeed these incorporated the management and running costs associated with financing the purchase of the facility. The assessment was therefore undertaken on the basis of a reduction in these administrative costs with a significant discounting of the initial purchase prices. The report identifies that even with this discounting in place and with a reasonable level of overheads attached to the business acceptable levels of profitability were not available and as such the business as a whole going concern could not be considered as viable. Chesterton Humberts have stated that should the properties be offered to third parties at nil or close to nil value i.e. very heavily discounted/subsidised then a viable operation may be achievable. This has been a suggestion of some of the Third party objectors. However it is considered wholly unreasonable to require any landowner or business to dispose of assets at nil value merely to seek to maintain an established land use, which then may or may not prove to be viable in the longer term for a different operator/owner. It is not considered that such an approach, refusal of the application on this basis, would be defensible and justifiable in an appeal situation.

It should also be noted that a third party (a local resident who has previously investigated purchase of the facility) made representations to the Council regarding viability and available financial information. They have made submissions of their own in this regard and these were forwarded to Chesterton Humberts for review and consideration. Specifically Chesterton Humberts were asked to consider whether the further information affected their assessment in any way and altered their submitted assessment. Chesterton Humberts clearly stated that the information did not change or alter their assessment.

It must be made absolutely clear that Chesterton Humberts are a firm of Chartered Surveyors and as such they were instructed to examine the marketing information and viability matters only. Chesterton Humberts were not instructed to consider wider issues such as the principles of residential development in this location or indeed comment on the determination of the application in any way. This is the responsibility of the case officer and as noted the merits or otherwise of residential development in this location are not available for consideration as part of this application in any event.

S106

The application proposal would result in unrestricted residential use of the site and in all likelihood the sale of properties individually and thereby creating a new permanent residential community in this location. The current ly revised application relates to 8 units only but there is a potential for 12 further units to be similarly considered should the applicant choose to market those properties and propose the removal of conditions afterward. Certainly the evidence before the Council (the terms of the original application) indicates that this is the intention of the applicant. As such consideration of the impact of the new residential community on existing services and infrastructure in the context of the Council’s adopted policies C2 and CF3 of the NWLP in a two phase approach has been undertaken. As identified in the Consultations section

above Open Space, Education and Waste Collection requirements have been identified as necessary requirement arising from this development. In making the assessment of need consideration has been given to the Council's adopted policies supporting assessment information and the location of the site outside a defined settlement. On this basis the following requirements are considered to be necessary and justifiable:-

Education

In relation to the 8 units that are the subject of the current application 2 secondary school places are generated that cannot be accommodated within existing facilities. 2 primary school places are generated but can be accommodated within existing infrastructure. Existing secondary school capacity can be enhanced and so a financial contribution of £38,310 for secondary infrastructure is required based on current school place cost multipliers.

Open Spaces

The site lies adjacent a golf course and is within the open countryside but is not well related to major centres of population and existing public open space provision. Given the site circumstances and scale of residential accommodation that would result it is considered that on site provision of a children's Local Equipped Area for Play (LAP) is necessary and justifiable in relation to the 20 units originally proposed but no provision either on site or in terms of financial contributions could be justified in relation solely to the 8 units. This position can be addressed by the inclusion of a trigger for on site provision of play space (in a specific location and form to be agreed with the Council) should the second phase of 12 units ever be subject of a planning permission for removal of the restrictive occupancy conditions. Officers recommend that this would be most effectively maintained through a private management company arrangement and again this can be achieved by covenants for agreement of terms in a S106 agreement.

Waste Facilities

Officers identified a requirement for waste collection facilities (wheelie bins) and seek a financial contribution for provision for each of the twenty dwellings equating to £2,420. The applicant has however identified that there is already existing provision of such facilities at the site. As such it is agreed that further financial contributions are not justifiable in this respect.

These requirements have been identified and discussed with the applicant who has agreed to address matters through the preparation of a Section 106 agreement, in this instance a Unilateral Undertaking is proposed. A draft has been submitted for agreement but this has only just been received at the time of writing the report and legal review of the terms and conditions is required. As such the recommendation is to delegate authority to the Area Development Manager to grant consent subject to the finalisation of this agreement.

Phase 4 of the Development/Extant Permission

It should be noted that a final phase of development of holiday let units at the site remains unimplemented and is not covered by the current application proposals to remove restrictive occupancy conditions. The consent remains extant given the implementation of earlier phases and related works. An application to discharge conditions relevant conditions has been submitted. Officers were concerned that this indicated some level of intent on the part of the applicant which would therefore undermine the assertions as to viability and demand for the existing units that are the subject of this application. Officer sought Legal advice as to what if any action could be taken with respect to the consideration of the discharge of conditions and possibility of voiding the permission of the final phase of development. The advice received is that if the details are acceptable it would be unreasonable to withhold formal discharge of conditions and such an approach would not be justifiable or defensible..

With regard to the invalidation of the original permission with respect to the phase 4 development legal advice is that once a planning permission is granted it will continue in force. Where partially implemented it remains extant. In certain circumstances the grant of subsequent applications may make it impossible to complete implementation of the original consent, for example where the uses permitted are incompatible or there are physical constraints to the implementation of the two different permissions. Given the facts of this case in terms of the form and layout of the site and the remaining consented phase of development and given the compatible nature of the uses that would be permitted (holiday lets and residential units) the Legal team do not consider that there is an issue of incompatibility that would invalidate the phase 4 consent.

Should the phase 4 consent be implemented and then an application to vary or remove conditions be submitted on the grounds of viability the site history and in particular the position with regard to the current application and any future second phase application relating to the 12 units not covered herewith would be material considerations. It is officers' opinion that it would be impossible to justify the erection of the phase 4 units and then apply shortly thereafter for removal of conditions on the grounds of viability. It would be apparent to all parties that the investment should not have taken place because the units were known to be unviable.

The applicant has verbally commented that there is no intent to proceed with implementation of this phase 4 and that the purpose of discharging conditions relates to the valuation of the property as whole in relation to current financing arrangements.

10. Conclusion

It is considered that it has been satisfactorily demonstrated that the existing development of 20 holiday let units is not viable as a going concern and that adequate marketing of the facility at a reasonable valuation has been undertaken. Similarly it is considered that following appropriate and acceptable marketing there is no evidence of proceedable interest in 8 of the individual units with the restrictive conditions applied. There is verifiable evidence that the current business is operating at a loss and even taking into account significant level of discounting that a reasonable and appropriate level of profit cannot be achieved. The Council has sought and received independent assessment of this position. Consequently it is considered that the case has been made to justify removal of the restrictive occupancy conditions subject to the necessary consequent service and infrastructure requirements being addressed through a S106 agreement.

11. Further comments to Meetings of 2nd and 23rd April

The following paragraphs were included in the report to the meeting of 2nd April, however that report was withdrawn from the Agenda:

Further Comments to Meeting of 2nd April

At the Northern Area Planning Committee on 12th March 2014 Members resolved to defer making a decision to allow officers to seek further information and address a number of concerns that members raised. The main areas of concern that were identified were:

- Residential amenity, the provision for private amenity space for the units and impact this may have on the appearance of the development
- Details of the proposed legal agreement and contributions sought.
- Impact on Wiltshire Council provided services, in particular Waste collection
- Details of access to the highway

- Interpretation of paragraph 55 of the National Planning Policy Framework.

Residential amenity

This matter was addressed in the report to the 12th March NAPC. Under the 'Principle of development' heading the report noted:

"In terms of the residential conditions that would result from an unrestricted residential occupancy arrangement it is considered that the site layout affords a reasonable level of residential amenity. It is certainly not considered to be the case that the arrangement is so sub-standard in terms of the amenities of future occupants that all other material considerations are overridden and consent should be refused. It will however be necessary to remove certain permitted development rights by condition to ensure control over this situation."

Officers have reviewed the existing site layout. Whilst probably not the type of layout that would have been favoured for unrestricted residential occupation, it does afford acceptable levels of privacy and avoids overlooking. Clearly the layout does not provide private areas of garden or sitting out space, but these issues could be addressed with the introduction of fences or other boundary treatments. Any additional fencing will require permission if the proposed conditions are approved and this would give the Council the opportunity to consider what impact these would have on the appearance of the development or the wider landscape.

Details of proposed legal agreement

The details of the proposed contributions and restrictions to be sought are set out in the Officers report under the 'S106' heading. This detailed that a contribution of £38,310 was being sought for education. In terms of public open space there is no contribution being sought at this stage, however should the remaining units be subject to a similar application (to remove the restrictive conditions) this could trigger a contribution:

"the inclusion of a trigger for on site provision of play space (in a specific location and form to be agreed with the Council) should the second phase of 12 units ever be subject of a planning permission for removal of the restrictive occupancy conditions."

Impact on waste collection

This matter was also addressed in the report to the NAPC on 12th March under "S106":

"Officers identified a requirement for waste collection facilities (wheelie bins) and seek a financial contribution for provision for each of the twenty dwellings equating to £2,420. The applicant has however identified that there is already existing provision of such facilities at the site. As such it is agreed that further financial contributions are not justifiable in this respect."

The units are existing and could be occupied year round, albeit by 'holiday makers' rather than permanent residents. Both types of occupiers will create waste and this will need to be collected. The impact on waste collection at the site will be little different should the restrictive conditions be lifted.

Details on Highways access

Officers indicated at the NAPC Meeting on 12th March that access was afforded to the site via two points of access. However, whilst an access does exist from Wick Road to the east of the site this is not generally used. The principle point of access is via the main 'golf course' access to the south of the site.

The highways team has confirmed that they have no objection to the proposals. As with the comments on waste collection above the difference between traffic generated by the units with the restrictive conditions applied and an unrestricted residential unit is very minor. The access to the site is considered acceptable to serve the golf course plus the existing units and the, as yet to be implemented, phase iv units. Officers consider that it would be difficult to argue that the removal of the restrictive conditions would result in significantly more traffic using the access or that use of the existing access would become a danger to highway safety.

NPPF

Paragraph 55 of the NPPF seeks to restrict isolated homes in the countryside. This reflects long established policies at both national and local level that only allows for new homes where there is an agricultural justification, reuse/conversion of existing buildings or where a 'truly outstanding' design is proposed. However, this application is not for new build units or conversions and the application is not for the change of use of the buildings. In this case the Council is considering removing conditions that restrict the use of an existing group of residential properties. It is not considered that paragraph 55 is particularly pertinent to this proposal. A refusal based on the requirements of paragraph 55 would be difficult to justify.

For clarity Paragraph 55 states:

"To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:

- the essential need for a rural worker to live permanently at or near their place of work in the countryside; or
- where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or
- where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or
- the exceptional quality or innovative nature of the design of the dwelling. Such a design should:
 - be truly outstanding or innovative, helping to raise standards of design
 - more generally in rural areas;
 - reflect the highest standards in architecture;
 - significantly enhance its immediate setting; and
 - be sensitive to the defining characteristics of the local area."

Further comments to the meeting of 23rd April

Following the receipt of a letter from Thrings solicitors the application was withdrawn from the Agenda for the following reason:

"A letter has been received from solicitors acting on behalf a third party which argues that should the Council make a decision to approve planning application reference 13/00958/s73a (Oaksey Park, Lowfield Farm, Oaksey) without first making publicly available all documents referred to in the officers report (specifically the Chesterton Humberts assessment of the schemes viability) then the decision may be vulnerable to challenge through the High Court. The report

was not made public because it was considered to contain personal and financially sensitive information, however a redacted form of the report was made available through the freedom of information act. However, Officers believe that in the interests of transparency the requested information should, as far as possible, be made available to the public alongside other planning documents. For that reason the application has been withdrawn from the agenda, to be considered at the next available Northern Area Planning Committee.”

A copy of the letter is attached as Appendix 1.

The argument set out in the Thrings letter of 31st March is that the Council should make available the Chesterton Humberts Report upon which the Officers report draws for some of its conclusions. Secondly, it argues that the highways matters have not been fully assessed.

In response a copy of the redacted Chesterton Humberts Report has been placed on the Council’s website (it had already been made available under a Freedom of Information request). It is considered to be appropriate that some of the financial and personal information in the report remains confidential.

Secondly, whilst the Council is happy to make available any correspondence from the Highways team on this matter, there is no justification for the implied claim that the highways issues have not been assessed in the consideration of this application.

Prior to the Committee considering the application on 12th March Officers made some further observations about the content of the report, which sought to clarify some relatively minor points. For completeness these were:

- Under the heading ‘Report Summary’ it is said that the conditions regarding the holiday accommodation link it to the adjacent golf course. However, these operations (golf course and accommodation) are independent and are not formally linked (especially by condition) despite the obvious synergy that has operated over the years.
- In the above report Officers have summarised the Chesterton Humberts viability report findings and refers to the “reduced market valuations”. The viability report is perhaps more direct, describing the marketing as having involved ‘heavily discounted prices’ and links the lack of interest ‘purely on account of the restrictions in the planning consent’.

Conclusion

Having considered the matters that members raised in relation to this application on 12th March and the content of the Thrings letter of 31st March Officers consider that the recommendation originally presented to the NAPC meeting on 12th March remains appropriate.

RECOMMENDATION

That authority be delegated to the Area Development Manager to grant Planning Permission subject to the conditions listed below and the completion of a section 106 agreement to address education and open space service infrastructure requirements.

Conditions

1 The development hereby permitted shall be carried out in accordance with the documents (including plans) incorporated into this decision, previously and subsequently approved pursuant to

this decision (including details contained within letters dated 16th January 2004, 13th February 2004 and 22nd February 2004 from Nick Stickland Architect and their enclosures and a letter dated 16th February 2004 from Rationel Windows and Doors and its enclosure relating to hard and soft landscaping, external stonework and materials, external lighting and foul drainage), unless otherwise approved in writing by the local planning authority. Site Location Plan, Site Access Plan, Site Plan 09/04/2013. site layout plan Ref 958/10 date stamped 01/08/2013

REASON: To ensure that the development is implemented in accordance with this decision in the interests of public amenity.

2 The approved landscaping scheme (details set out in a letter dated 13th February 2004 from Nick Stickland Architect plus enclosures) shall be implemented within one year of either the first occupation or use of the development, whether in whole or in part, or its substantial completion, whichever is the sooner, and shall be maintained thereafter for a period of not less than five years. The maintenance shall include the replacement of any tree or shrub which is removed, destroyed or dies by a tree or shrub of the same size and species as that which it replaces, unless otherwise agreed in writing by the local planning authority.

REASON: In the interests of visual amenity in accordance with policy C3 of the North Wiltshire Local Plan 2011.

3 Notwithstanding the provision of the Town and Country Planning General Development Order no fences, walls or other means of enclosure other than those shown on the approved plans shall be erected anywhere on site.

REASON: To ensure that the open areas of the site remain in communal use.

4 The area between the nearside carriageway edge and lines drawn between a point 2.4 metres back from the carriageway edge along the centre line of the access and points on the carriageway edge 160m back from and on both sides of the centre line of the access shall be kept clear of obstruction to visibility at and above a height of 900mm above the nearside carriageway level and maintained free of obstruction at all times.

REASON: In the interests of highway safety in accordance with policy C3 of the North Wiltshire Local Plan 2011.

5 The development hereby permitted shall be served solely from the access shown in drawing c310/1.

REASON: In the interests of highway safety in accordance with policy C3 of the North Wiltshire Local Plan 2011.

6 The workshop / estate yard shall be used only for purposes ancillary to the golf course.

REASON: To prevent an inappropriate independent use.

7. The development hereby permitted relates solely to units 12 – 19 Inclusive as shown on site layout plan Ref 958/10 date stamped 01/08/2013.

REASON: To clarify the extent of the permission.

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking or re-enacting or amending that Order with or without modification), 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.

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

REASON: In the interests of residential amenity and privacy.

11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking or re-enacting or amending that Order with or without modification), there shall be no additions/extensions or external alterations to 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 external alterations.

INFORMATIVES:

Any alterations to the approved plans, brought about by compliance with Building Regulations or any other reason must first be agreed in writing with the Local Planning Authority before commencement of work.

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

The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on land outside their control. If such works are required it will be necessary for the applicant to obtain the landowners consent before such works commence.

If you intend carrying out works in the vicinity of the site boundary, you are also advised that it may be expedient to seek your own advice with regard to the requirements of the Party Wall Act 1996.

Background Documents Used in the preparation of this Report:

- Application Documentation including Strutt and Parker Market Viability Report and Additional Supporting Information
- Chesterton Humberts Assessment of the Market Viability Report

THRINGS

For the attention of Lee Burman/Brian Taylor
Wiltshire Council
Monkton Park
Chippenham
Wiltshire
SN15 1ER

Also via email

31 March 2014

Your Reference: Our Reference:

AM/lcl/03864-1
Direct Line: 0117 9309575
Direct Fax: 0117 9293369
Email: amadden@thrings.com

Dear Sirs

Our Client: Martin Davies on behalf of Oaksey Parish Council

Application Number: N/13/00958/S73A ("the Application")

Application Site: Oaksey Park, Lowfield Farm, Oaksey, Wiltshire ("the Application Site")

Proposal: Removal of Conditions 8, 9 and 10 imposed on application reference 10/03612/S73A which varied condition number 7 of 02101841/FUL and appeal APP/J3910/A/04/1145607, allowing unrestricted residential occupancy of units 12 to 19 (8 in total)

We confirm we represent the above named who has previously lodged an objection to the above application.

It is our understanding that this Application will now be determined at Committee on 2 April 2014. The purpose of this letter is to request that the determination of this Application at Committee on the above date be deferred until the next available Committee date to allow the documents referred to below to be disclosed to our client and/or uploaded onto the Council's website so that they can be properly considered by our client (and other third parties). We have numbered the following paragraphs for ease of future reference.

1. Viability Report prepared by Chesterton Humberts

1.1 We understand from the Officer's report to Committee that Chesterton Humberts were instructed to specifically assess the Applicant's submitted market viability report and to consider whether or not this was reasonable and sound in respect of the removal of conditions for the 20 units; and also the viability of the sale of 8 individual units with the relevant restrictive conditions in place and the marketing that had taken place and the valuations placed on the 8 units which are the subject of the Application. The confusion between the surveyors for both parties and the partial assessment relating to the marketing of individual units is also material and duly noted.

The Paragon • Counterslip • Bristol • BS1 6BX • Tel: 0117 930 9500 • Fax: 0117 929 3369 • OX: 789S Bristol
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1.2 Although the contents of the report prepared by Chesterton Humberts are summarised in the Officer's report, a copy of the document is not available on the Council's website and therefore, those objecting to the Application have had neither the opportunity to fully consider the contents of the same nor to make appropriate representations.

1.3 Plainly, a failure to disclose the Chesterton Humberts report seriously prejudices the ability of third party objectors to consider first hand its contents and to make appropriate representations in relation to the same. In addition, such an omission, if submitted, contravenes the requirements of section 1000 of the Local Government Act 1972 (as amended) which provides, amongst other things, that background papers for a report are to be open to inspection by members of the public. Moreover it follows, therefore, that such an omission contravenes a statutory requirement and constitutes procedural impropriety which may result in the Council failing to take into account relevant material (in the form of third party representations) in the determination of the Application.

2. Highways Officer's Comments

2.1 Although it is noted that the Council's Highways team has confirmed that they have no objection to the proposals as set out in the Officer's report to Committee as it "would be difficult to argue that the removal of the restrictive conditions would result in significantly more traffic using the access or that use of the existing access would become a danger to highway safety" such reasoning appears, on the face of it, erroneously derived.

2.2 It is submitted that should the Application be approved and that the units become available for residential use (as opposed to use as a holiday let, which is, by its very nature, seasonal) then the use of the access to and from the Application Site will be intensified such that it could cause a real risk to highway safety. It follows, therefore, that this issue requires an appropriate assessment. For this reason, we require sight of aU internal communications between the Highways Officer and the Case Officer in order that we can be satisfied that this issue was properly considered and, if necessary, make representations in relation to the same.

2.3 Again, it is submitted, that without sight of the said communications which, in turn, will enable appropriate comment from third party objectors and their experts, there is a real risk that the Council will fail to have regard to relevant material if the Application is determined at Committee next week.

2.4 It is settled law that highway safety and capacity is a material consideration and, in particular, we refer you to the case of *R v Newbury District Council (ex parte Blackwell) [1999] JPL 680* where a Council's decision was overturned for failure to take into account the material consideration of highway safety.

3. To conclude, we submit that, for all of the above reasons, it will breach the rules of natural justice if the Application is not properly determined at Committee next week, since all of the information in support of the same has (a) not been publicly made available for consideration

by third parties and (b) those third parties have not had, therefore, the opportunity to submit any representations in respect of the same.

In the circumstances, we request that this Application be deferred to the next available Committee date once the requested documents have been disclosed (and/or uploaded onto the Council's website) so that third parties can have an opportunity to properly consider and comment on (if necessary) the same.

In the event that the Application is determined at Committee next week then the consequences of breaching statutory requirements amounting to procedural impropriety and failing to take into account relevant material will render any decision amenable to challenge in the High Court by way of judicial review.

We look forward to receiving your written confirmation that the determination of this Application will be deferred as above mentioned.

Please do not hesitate to contact the writer, Alex Madden, on the above number should you have any queries.

Yours faithfully



Thrings LLP



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 SN3 4HG

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Client
Oaksey Park Ltd
Page 53

Project
**Application to Vary
 Occupancy Restrictions**

Drawing Title
Location Plan

Figure No
JC/001/RG

Date September 2010
 Drawn By MM
 Checked By RG
 Scale NTS
 File Ref 1042/Oakse/Figures/Fig2.ai

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REPORT TO THE NORTHERN AREA PLANNING COMMITTEE

Date of Meeting	23 April 2014		
Application Number	13/06672/FUL		
Site Address	56 New Road Chippenham SN15 1ES		
Proposal	Conversion of shop (A1) to Gym (D2) and erection of single storey extensions to side to create access and alterations to existing shop front		
Applicant	Mr T Gill		
Town/Parish Council	Chippenham		
Electoral Division	Chippenham Monkton	Unitary Member	Chris Caswell
Grid Ref	391848 173539		
Type of application	FULL		
Case Officer	Mandy Fyfe	01249 706638	Mandy.fyfe@wiltshire.gov.uk

Reason for the application being considered by Committee

This application has been referred to the Northern Area Planning Committee because of a call-in by Cllr Caswell on the grounds of design, bulk, height and general appearance, environmental and highway impact grounds and loss of retail provision in an area where improved retail provision is much needed.

1. Purpose of Report

To consider the above application and to recommend that planning permission be GRANTED subject to conditions.

The Town Council do not object but would prefer that a retail use is retained
There have been no letters received from any neighbours

2. Main Issues

The main issues in considering the application are:

- Principle of development Policies C3, HE1, HE4, R2 and CF2 of the adopted North Wiltshire Local Plan 2011 and Paragraphs 7,17, 19, 23, 56, 60, 61, 64, 65, 66, 128, 129, 131,132, 133, 134 and 137 of the National Planning Policy Framework 2012 and consideration of the National Planning Practice Guidance
- Loss of A1 retail space in Secondary Shopping area
- Loss of existing and replacement of shop front
- Erection of single storey extension and possible conflict with access to rear yard and 3No flats above
- Impact of scheme on adjacent heritage assets of listed building of 55 New Road, Grade II* railway viaduct and Chippenham Conservation Area
- Loss of amenity to flat units above as a result of noise transmission

3. Site Description

56 New Road is a C19 building constructed of natural rubble stonework and a slate tiled roof comprising of two units at ground floor: an estate agent occupying 56A and The Chippenham Bed & Mobility Centre for the rest of the ground floor as a A1 retail use. The majority of the shop unit away from main building is constructed of blockwork and there is an extensive area of flat roofs to the front and back of the former house element. To the north of the shop unit is a passageway just about wide enough for a vehicle to reverse down and a set of external stairs that lead up to 3No flat units on the first and second floors. Behind the shop unit is a small area that has been used as the rear access into the shop as well as some recent tipping. In addition to the external staircase, the occupiers of the flats have wheelie bin storage beneath the staircase.

To the north of the passageway which incidentally is not for the residents parking is a large blockwork wall of the side of the British Heart Foundation Charity shop and next door is the Brunei Public House. Both of these units have large single storey front extensions and are both Grade II listed. Beyond these two buildings is the Grade II* listed Western Arches of the Great Western Railway.

In addition to the whole area being within the Chippenham Conservation Area, this part of the town centre is also within the Secondary Retail Frontage area too.

4. Relevant Planning History		
Application Number	Proposal	Decision
11/02772/FUL	Change of use from A1 to A2 use (56A)	Granted
07/02581/FUL	Convert apartment to 3No apartments and erection of external staircase	Granted

5. Proposal

The proposal is to change the use of an existing A1 use to a gym (D2) use of the ground floor of 56 New Road Chippenham which is currently being used for the sale of mobility equipment and beds. The proposal involves the conversion of the ground floor only by removing the central doorway and erecting a single storey extension in the passageway between No 56 and 55 New Road to create the new access for both the gym use and the entrance to the flats above which are reached by an external staircase. A second single storey extension is proposed towards the rear of the site to provide an enlarged ladies changing room area.

6. Consultations

Chippenham Town Council: No objection but Town Council would prefer this to remain as a retail unit.

Conservation Officer: This is a fine stone building (early C19) with a glazed shop front in the Chippenham Conservation Area and is in the setting of the grade II* railway viaduct. To the north of it is a pair of Grade II listed buildings (Nos 55 and 54). The proposal is to make alterations to the ground floor of the building to house a gym. The shop front will be altered by replacing the shop front with two fixed panes of glass onto the highway. An extension will also be constructed between the application building and No 55 to create a side access. Although the principle of a gym is supported, there is no need to make the external alterations and as such the alterations would detract from the special architectural and historic interest in this building as well as the adjacent heritage assets. Recommend refusal.

Highways: I note the lack of parking, but as stated there are public car parks and some on-street parking nearby. No highway objection be raised.

Environmental Health: *(original comments)* In principle I do not have an outright objection to this application. However the proposals will cause conflict in use between the three flats upon the upper floor and the commercial premises –Gym that is proposed on the ground floor. This use has a potential to create noise though; crashing of weights; music; screams from the users and has the potential to be open in late evenings and weekends. In order to prevent a loss of amenity to the flats through noise and to the ensure protection of the business from unnecessary enforcement action, it will be necessary for the applicant to undertake a noise assessment. The noise assessment should be undertaken to determine the effectiveness of the sound insulation between the ground floor and the first floor. Wiltshire Council would expect the scheme to provide protection that achieves reasonable standards for both bedrooms and living rooms as defined by British Standard 8233:1999 Table 5 (i.e. Living rooms=reasonable=40dB and Bedrooms=35dB).

(Additional information following the non-submission of a noise assessment by applicant prior to determination): Following a conversation from the applicants planning consultant Mark Willis on Tuesday. Concerns were expressed that they were unable to undertake and provide a noise report whilst the ground floor was occupied by the current tenants.

The agent has agreed and understands why we require a noise report in order to specify the standard of works required to protect the flats from noise created by the Gym, although he was hoping that they could delay the work until after the property was vacated.

The Environmental Health Officer does not think this request is unreasonable and is happy for a condition to be placed upon the permission that stipulates that the premises has to undergo a noise survey and identify mitigation prior to the occupation of the new business proposed.

7. Publicity

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

Planning Policy

Adopted and saved North Wiltshire Local Plan 2011

Policies: C3, HE1, NE18, HE4, R2 and CF2

National Planning Policy Framework 2012

Paragraphs: Paragraphs 7, 17, 19, 23, 56, 60, 61, 64, 65, 66, 69, 120, 128, 129, 131,132, 133, 134 and 137

National Planning Policy Guidance

8. Planning Considerations

- Principle of development
- Loss of A1 retail space in Secondary Shopping area and issues over new shop front
- Erection of single storey extensions and possible conflict with access to rear yard and 3No flats above
- Impact of scheme on adjacent heritage assets of listed building of 55 New Road, Grade II* railway viaduct and Chippenham Conservation Area
- Loss of amenity to flat units above as a result of noise transmission and highway grounds

Principle of development

56 New Road is sited on the west side of the road and is within the Chippenham Secondary Retail Area, as well as the Conservation Area and is adjacent to a Grade II listed building and within the setting of the Grade II* Western Railway Arches footway. The ground floor is currently used as the Bed & Mobility Centre and Michael Anthony's estate agents. The A1 use extends right to the back of the shop with the estate agent only taking up about a third of the shop floor.

Above this and set back from the flat roofed shop front is a stone building typical of the nineteenth century with a prominent bay window. To the north side of the building is a narrow vehicular access to the rear of the site that may have been used for unloading in the past which backs onto the Ivy Lane one way system separated by a blockwork wall. An external timber staircase leads up to a terrace and access to the 3No apartments in the original buildings first and second floors. The original building is constructed from coursed Bathstone which has been painted and rendered with a slate roof, whilst the flat roofed frontage of the application unit has a blockwork wall fronting onto the side access. At the front there is a central access into the shop, but it is significantly recessed into the shop floor with two glazed display areas fronting onto the footway. The estate agent's unit has a flush glazed shop front.

On the other side of the access way is one of a pair of Grade II listed buildings of 55 and 54 New Road that were houses built in late C18 or early C19 and occupied in 1847 by Rowland Brotherhood (who was IK Brunel's principle contractor for the Great Western Railway).

The proposal is to convert the ground floor of the A1 use to a gym (D2) as the owner considers that this is a more viable use than the bed shop. The floor area measures some 472m². To the side of the building is an accessway that is used for parking of vehicles as well as being the access to the 3No flats over. Internally there is currently an office, WC and storage around the back and side walls of the unit. There are also three steel pillars which will be retained.

Externally it is proposed to remove the existing shop front arrangement and replace with a wholly glazed front with two single vertical glazing bars dividing the shop front into three equal glazed panels would project forward from the existing sloped frontage and sit flush with the footway. To the side where the current access to the flats is; a small single storey extension would be erected with self-closing glazed doors to the front and back at the front of the unit flush with the altered shop front. The rear glazed doors would be for the users of the flats only.

Beyond this near the back of the site a second single storey extension would also be constructed to facilitate a large ladies changing area with a new access door. At the rear of the building a further extension is proposed to provide the enlarged area for the men's changing rooms.

It should be noted that the front facing extension would have pitched roof with a depth of roof slope the same as the existing fascia sign but the two other additions would have flat roofs slightly below that of the terrace belonging to the flats, so as not project above the flat roof.

The new additions would add a further 118m² in the form of 39m² for the front addition, 42.6m² for the ladies changing room addition and 36.3m² for the men's changing area. This would give an overall floor area of 590m².

It is therefore considered that the front facing extension with its proposed glazed double doors would present an attractive frontage onto New Road. The ridge height would be the same as the fascia depth and be read as extension to the shop front. The submitted additional plan of 6th February shows that the overall fascia would include that of the single storey extension too, so that it would be read as being part of the shop front.

Loss of A1 shop unit in Town Centre Secondary Frontage Area and issue of existing shop front

56 New Road is within the Town Centre Secondary Frontage Areas as set out under Policy R2 of the Local Plan. This states that proposals for shops, financial and professional services, food premises, leisure facilities and night clubs (A1, D1 and D2) uses will be permitted within defined town centre secondary frontage areas in Chippenham subject to specific criteria that the uses do not (i) individually or cumulatively undermine the vitality or viability of the town centre; (ii) is consistent with the scale and function of the town centre and (iii) consideration is given to ensuring that the proposals do not eliminate separate access arrangements to the upper floors which could be used for residential, community or employment uses.

Paragraph 23 Chapter 2 of the National Planning Policy Framework 2012 deals with ensuring the vitality of town centres. To support this scheme, the Framework states that there should be 'a range of suitable sites to meet the scale and type of retail, leisure... etc development in town centres and these needs should be met in full and not compromised by limited site availability'.

It is not considered that there is a need to apply the sequential test for this use as the D2 leisure use is specified in the adopted and saved Local Plan policy R2. As for the other gym uses in the vicinity, there is a second very small gym/workout area located further down New Road but this has a limited floor area and is attached to a beauty salon. The nearest other gym off New Road is in Union Road and is a designated Ladies Only gym which leaves the Olympiad as the nearest communal use gym. It should also be noted that the first floor is to be retained as three flat units as existing.

It is noted that the applicant considers that the viability of the retail use is of concern due to the existing shop front arrangement, so a town-centre gym would be more financially viable as it will be served by public transport links and there are plenty of town centre car parks available too. Indeed over the last few years, there have been several sales at this premises which appear to confirm that the retail use is struggling to be a viable business here. It should also be acknowledged that it is Government Policy to note the changing roles of town centres following the economic downturn.

Nevertheless it is acknowledged that this part of the secondary retail frontage in New Road is dominated on the other side of New Road with A3/A4 users at ground floor with residential above. On this side of the road there is a pub and charity shop as well as estate agents next door. Moreover the change of use from A1 to D2 is acceptable under the adopted Local Plan and it is considered that users to the gym may also do other retail/food/leisure shopping before or after using the facility thus increasing footfall in this area. The scheme is therefore considered to comply with the policy.

One further point that is considered relevant here is that the existing A1 retail unit has an unusual shop front glazing arrangement, in that the entrance door is significantly set back from the frontage so that the areas either side are narrow and have limited display space clearly visible from the footway. It is only when one gets into the body of the shop that the merchandise is clearly visible to view and this factor has clear implications in the current retail environment, although it is acknowledged that a change in shop front design to a central flush or slightly inset door way would overcome this issue for the existing use.

Erection of single storey extensions and possible conflict with access to rear yard and 3 No flats above

As can be seen from the plans, it is intended to erect three single storey extensions of which two would be in the existing side access and the third would be at the rear of the store. The one fronting the footway which would have double doors front and back would in addition to providing a pair of large double doors further down the side of the building for the gym itself, also provide a further pair of double doors in the rear wall for the pedestrian access only for the occupiers of the

flats. The fascia that is above the existing shop front would be extended to the access doors too. The agent considers that the current situation which although allows vehicles to park down the side also makes the entrance to the only access to the external staircase vulnerable too. He considers that the use of key code access double doors only would be safer. It is also noted that there is an extensive flat roof in front of the flats above the rear part of the shop unit that appears to be part of the access to the flats.

However there is the question of how the flat users would dispose of their rubbish as the current wheelie bins would appear to be wheeled down to the entrance of the side access when required but the new extension would prevent this as the bins would get in the way of users to the gym.

The agent has been asked to provide information on waste storage for both the flats and also the proposed gym use too.

It should also be noted that the second extension further beyond the staircase would effectively block any rear access for the flats to access Ivy Lane in the event of a fire as well as the users of the gym as the two new access doors would be through ladies and men's changing rooms. The submitted plan actually indicates that a means of escape onto Ivy Lane is indicated in writing, but it is not actually shown on the plan itself. The agent has been asked to submit a revised plan showing the position of the access onto Ivy Lane.

Policy C3 of the Local Plan requires that there is a need to ensure access into and within the site is safe and minimises risk from crime and is convenient and attractive to pedestrians, cyclists and people with disabilities.

It is acknowledged that the new access would minimise the risk from crime with the key-coded access to the rear of the front extension, but instead of two accesses as now – New Road and Ivy Lane, there would only be one that would need to involve accessing a building to get out onto New Road.

The design of the extensions is also a fundamental requirement of the National Framework too as set out in P 56, 60, 61 and 64 and although the new access may appear to be visually acceptable, it would need to be functionally acceptable too. The agent has been asked to provide information on the means of escape for the occupiers of the flats that is separate from the New Road entrance.

Impact of scheme on Chippenham Conservation Area

The property to the north of the passageway is a Grade II listed building currently housing the British Heart Foundation charity shop and the Brunel PH beyond. It would appear from the information submitted that the extensions are not intended to be physically attached to the side wall of the BHF shop. Nevertheless from a street scene point of view, the front single storey extension will give the appearance of a joined up appearance.

In terms of the Local Plan policy HE1, there is a requirement that all development needs to preserve or enhance the character or appearance of the area. So gaps between buildings are considered important where they provide attractive views. It is acknowledged that the single storey extensions would remove the gap between these buildings, but the existing view between them is usually filled with vehicles and the back blockwork wall fronting onto Ivy Lane. So although it is considered unfortunate in principle, the loss of view to the existing alleyway is not so detrimental as to be considered totally unacceptable. The Conservation Officer makes the point that although she does not object to the change of use to the gym, she is concerned that the scheme proposes to block up the high level windows and doors of the current building which is part of its character and detail, but these works could be undertaken anyway without permission as it is not a listed building. Taking all these points into consideration the view is taken that the scheme would preserve this part of the conservation area.

In terms of the Framework guidance, under Paragraph 138, it states that “not all elements of a Conservation Area would necessarily contribute to its significance”. Furthermore it is already acknowledged that the view from the passageway between No 56 and 55 is generally unattractive due to the parked cars and blockwork beyond, so the new extensions in themselves would not detract from the significance of the conservation area.

With regard to the proposed shop window arrangement which now includes 2No glazing bars instead of two as was originally proposed, the scheme need to be taken in the context of the estate agent’s next door and the charity shop on the other side of the passageway. It is considered that would be in proportion with these shop fronts and as such would be considered to preserve the appearance of the overall shop front in terms of Policy HE1 and contribute to its significance in terms of the Paragraph 138 of the Framework.

Impact of scheme on adjacent heritage assets of listed building of 55 New Road, Grade II* railway viaduct

There are also in this case the concerns raised by the Conservation Officer in respect of the development on the significance of the heritage assets of 55 and 54 New Road. Under Policy HE4, permission would only be granted where a development which would affect its setting would have to preserve or enhance it. The Conservation Officer makes the point that the new extensions would affect the natural light ventilation into the listed buildings; however there do not appear to be any side windows facing onto the passageway from No 55. She also considers that there is no need for the extensions or to make the external alterations to the shop front either as they would detract from the special architectural and historic interest of this building as well as the adjacent heritage assets.

The Conservation Officer also considers that the development would be contrary to Paragraph 131 of the Framework as it would not sustain or enhance the significance of the heritage, are not necessary for the viable use of the asset or would it contribute to the economic viability of the area and nor would it make a positive contribution to the local character and distinctiveness.

Furthermore she also takes the view that the less than substantial harm that would be caused by connecting the building to No 55 – the heritage asset would not be outweighed by the public benefit of the proposal and it is not necessary to secure its optimal viable use as set out in Paragraph 134. It is also considered that by blocking the space between No 55 and 56 and removing or simplifying the opening in the ground floor, the development would remove some of the elements that make a positive contribution to the area and would be contrary to Paragraph 137 hence why the Conservation Officer has recommended refusal for the scheme. It was certainly agreed that the proposed two large sheet glass panels would have resulted in a negative contribution to the street scene, but this has been overcome with the use of two glazing bars.

It is acknowledged that there would be some impact on the adjoining listed building by joining up the two buildings. However the single storey extension is low key in terms of design due to a ridge height that would match the fascia in terms of depth. The new shop front would be in proportion to the rest of the building and be quite similar in design terms to the large glazed shop front of No 55 too.

Furthermore neither the proposed shop front nor the extension would project forward of the existing footway, so in terms of impact on the Grade II* Western Arches, the view would be similar to the existing views from both at footway level and from passengers.

The comments of the Conservation Officer have been considered in this report, but the view is taken that as this is not a listed building and the extensions would not affect the fabric of the fairly modern single storey extensions that have been added to both 55 and 54 to make them into large open plan units down stairs, that this scheme would result in substantial harm to the significance of these designated heritage assets.

Loss of amenity to flat units above as a result of noise transmission and highway grounds

The Environmental Health Officer was concerned about the transmission of sound to the residents of the three flats above as the new use of gym tends to result in increased noise from machines and clients in general. He requested a noise assessment be submitted prior to determination.

The agent did submit detail for upgrading the ceiling of the ground floor to aid with the airborne sound system of the construction that would use a FIBREfon MICRO 50 suspended ceiling system normally constructed 100mm depth to improve the airborne sound performance of the construction. However he also made the point that a sound test could not be carried out as the flats above are occupied and would have already been insulated to Part E of the Building Regulations, although this would need to be confirmed by Building Regulations. He went on further to advise that it is good practice to acoustically insulate the construction even though a sound test may not be required. There is also a suggestion to use DECKfon Ultralay 5mm to be bonded to the slab to minimise noise impact here too.

The Environmental Health Officer discussed this with the agent and it has now been agreed that subject to permission being granted, the applicant will submit a noise assessment and mitigation prior to commencement works, so this would be dealt with via a condition instead.

With regard to the relevant policy in the Local Plan – NE18 there is a requirement that development would only be permitted where it would not generate harm to public health by way of in this case noise from the new use. Whilst there is separate legislation under the Public Protection Acts that means that users of a unacceptably noisy premises can be closed down, the Council has to consider such noise uses as part of the Planning Acts too and allowing for such a use without any mitigation measures and noise limits would be clearly contrary to the Local Plan.

As for the Framework, there is a requirement under Paragraphs 61 and 120 that require good design and the need to prevent the unacceptable risks from pollution to ensure that new development is appropriate for its location.

Subject to the proposal being granted and subject to a condition requiring a noise assessment and any mitigation measures be satisfactory to the Environmental Health Officer, the scheme is considered acceptable.

Finally with regard to the issue of highway impact grounds; it should be noted that the three flats do not have any parking provision in the side accessway which suggests that the parking that takes place here is associated with the shop for deliveries or other unrelated users.

Highway Officer's have not raised any objections to the loss of parking in this accessway either as there is on-street and public parking available here. It is also considered that parked cars may have resulted in obstructions for the users of the flats and for their refuse/recycling too.

In terms of the relevant policy C3 of the Local Plan requires that there is sufficient parking where necessary but this is a town-centre site and there is sufficient elsewhere. As for the framework and planning guidance, Paragraph 69 states that there is a need to provide safe and accessible developments containing clear and legible pedestrian routes. The scheme is considered to achieve this.

9. Conclusion

This development is considered to be sensitive in both considering the heritage assets and the environmental health impacts, but it is within the Secondary Frontage Area for Chippenham Town Centre and as such the change of use from A1 to D2 is permissible as are the alterations to the shop front itself.

Having considered the heritage asset and environmental health issues with the permitted change of use as per the Local Plan policy, the scheme is considered on balance to be acceptable in this location and subject to the appropriate conditions.

10. Recommendation

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 & Country Planning Act 1990 as amended by the Planning & Compulsory Purchase Act 2004.

2. No development shall commence on site until details of the formal noise assessment as required by the Environmental Health Officer email dated 06.02.2014 and mitigation measures (if any) have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details and decibel rating.

REASON: In order to prevent loss of amenity to the flats through the noise and to ensure the viability of the business from unnecessary enforcement action from Public Protection.

3. No development shall commence on site until details of the materials to be used for the external walls and roof 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 this part of the Conservation Area and adjacent Listed Buildings.

4. The following plans and documents were taken into account in the consideration of the application:

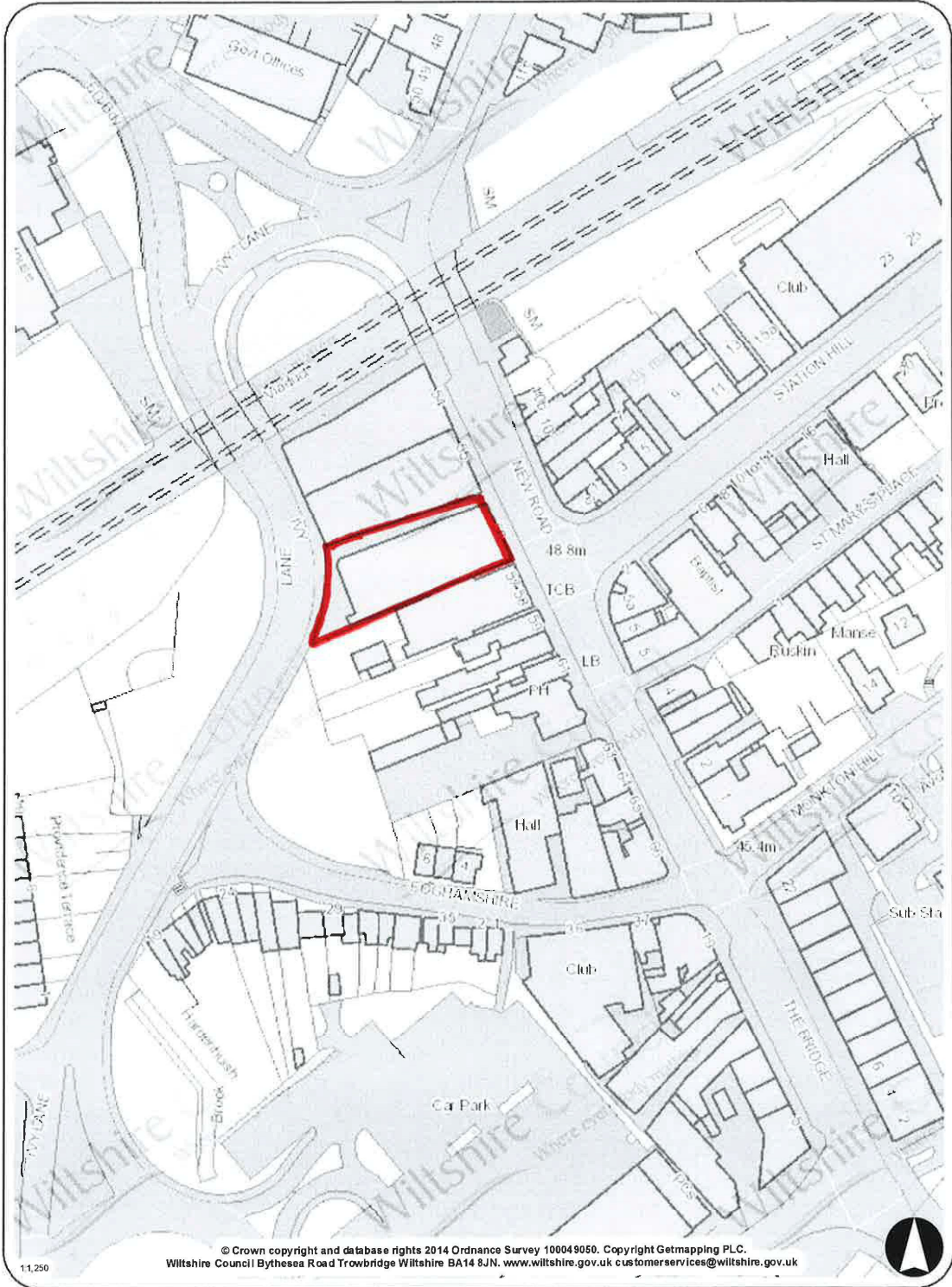
Dwg No: 2472/01 Various	Dated 06.12.2013
Dwg No: 2472/02A Plans and elevations as existing	13.12.2013
Part Superseded Dwg No: 2472/03A Plans & elevations as proposed	13.12.2013
Revised Dwg No: SK.01 New shop front with two glazing bars	06.02.2014
Additional Information on Ceiling Treatments	21.03.2014

INFORMATIVES TO THE APPLICANT:-

1. The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on land outside of their control. If such works are required it will be necessary for the applicant to obtain the landowners consent before such works commence.

If you intend carrying out works in the vicinity of the site boundary, you are also advised it may be expedient to seek your own advice with regard to the requirements of the Party Wall Act 2006.

2. This permission does not permit the display of any advertisements which require consent under the Town



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REPORT TO THE AREA PLANNING COMMITTEE

Date of Meeting	23 April 2014
Application Number	13/07226/FUL
Site Address	9 Gaston Lane Sherston Wiltshire SN16 0LY
Proposal	Detached Dwelling & Detached Single Garage
Applicant	Mr & Mrs Butler
Town/Parish Council	SHERSTON
Ward	SHERSTON
Grid Ref	385706 185992
Type of application	Full Planning
Case Officer	Lydia Lewis

Reason for the application being considered by Committee

Councillor Thomson has submitted a request for the planning application to be considered by the committee to assess the relationship to adjoining properties, design, bulk, height and general appearance.

1. Purpose of Report

To consider the above application and to recommend that planning permission be DELEGATED to the Area Development Manager to APPROVE subject to conditions and subject to the applicant entering into a legal agreement under S.106 of the Town and Country Planning Act 1990 in respect of the provision of a financial contribution towards public open space and affordable housing.

2. Report Summary

The main issues in the consideration of this application are the acceptability of:

- The principle of development;
- The design and appearance and impact on the character and appearance of the AONB;
- The impact of the development on the amenity of neighbouring occupiers;
- Impact of the development on trees;
- Parking and highway safety; and
- Provision of public open space and affordable housing.

The application has generated objection from Sherston Parish Council and 7 letters of objection from 4 different properties.

3. Site Description

The application relates to a plot of land currently forming the curtilage of No.9 Gaston Lane. No. 9 is a detached property set within a roughly triangular shaped plot extending to 0.1 hectares and situated within the Settlement Framework Boundary and an Area of Outstanding Natural Beauty (AONB). Open countryside lies to the east with land used for equestrian purposes to the south beyond a public right of way which runs along the southern boundary.

No.9 Gaston Lane benefits from a single detached garage to the west with space in front to park approximately 1 vehicle. The provision would be retained.

4. Planning History

N/11/00312/OUT New Dwelling & Garage - Approved by the Northern Area Planning Committee on 11th May 2011.

N/11/03783/FUL Extensions and Alterations - Permitted

5. The Proposal

The applicant seeks consent for the erection of a detached three bedroom dwelling and detached single garage. The proposed dwelling would be two storey in height with maximum dimensions of 9.3 metres wide, 7 metres deep and 7.5 metres to the ridge with a single storey extension to the north east side measuring 3 metres wide and 4 metres deep.

The single garage would be 6.4 metres deep, 3.4 metres wide, 2.2 metres to eaves level with an overall height of 4.2 metres.

The proposal would be constructed of render with reconstructed stone tile roof.

6. Planning Policy

C3 – Development Control Policy

NE4 – Areas of Outstanding Natural Beauty

NE14 – Trees and the Control of New Development

T3 – Parking

H3 – Residential Development Within Framework Boundaries

H6 – Affordable Housing in Rural Areas

CF3 – Provision of Open Space

7. Consultations

Sherston Parish Council – This application was very contentious at the outline stage, and was strongly opposed then by Sherston Parish Council, and many adjoining residents. The main objections of the Council was the effect of the inevitable increase in road traffic and parking on a narrow dead-end lane, and also the loss of amenity for No.22. This view has not changed, the Council is totally opposed to this development.

The Council was also very disappointed to see that the site plan presented was based on out of date information. There have been significant changes, particularly to No.22 which effect the impact of this proposed development on the area. No.20 is now two detached properties.

Gaston Lane itself narrows after it leaves the main highway, being narrowest at the Kissing Gate to the field at its south east end. It is a single track access at best. The Kissing Gate marks the start of the right of way across the adjoining field.

The north east elevation of the dwelling should have no windows. Also the materials of construction must be fully in keeping with the original No.9, whose plot is shares.

Highways – It is noted that the previous application has been approved and as such no highway objection is raised subject to the proposed parking area being conditioned. It would be a good idea to ask the applicant to provide a tracking diagram, along the same line that they did on the previous application.

Wessex Water – Waste water connections will be required from Wessex Water to serve this proposed development. DEFRA intend to implement new regulations that will require the adoption of all new private sewers. All connections subject to these new regulations will require a signed adoption agreement with Wessex Water before any drainage works commence. Separate systems of drainage will be required to serve the proposed development. No surface water connections will be permitted to the foul sewer system.

Public Right of Way Team – The Council has a responsibility to maintain the top surface of rights of way such as SHED26. Where damage is clearly caused by landowners or private users the Council can require them to put this right. It is recommended that detailed before and after surveys are undertaken and the developer be required to undertake remedial works to the Council's specification if they cause damage.

Public Open Space – This development generates a need for £5,820 in offsite open space contribution to be used to upgrade facilities at Court Street Recreation Ground.

8. Publicity

The application was advertised by site notice and neighbour consultation.

7 letters of objection have been received in response to the application publicity from 4 different properties. The concerns raised are summarised as follows:

- No setting out details on any drawings so the property could end up anywhere on site;
- No survey of the site with existing ground levels;

- No floor levels on the house or garage drawings, therefore they could end up any height;
- The drawings are misleading as they do not show the correct layout of No.22 or No.24 Gaston Lane;
- There is no drawing to show where the foul drainage is to be taken to;
- There is a requirement for tests to be carried out to see if the ground conditions are suitable for the type of driveway proposed;
- There is a need to put restrictions on the site working hours to be in line with normal building site practices;
- There should be no deliveries before 09:30 or after 15:00 Monday to Friday because the lane is so narrow;
- Activities carried out at the edge of the site should be done safely as the lane is very narrow and is in constant use by children and pedestrians;
- Wessex Water should be consulted;
- There should be a condition that the road should be resurfaced from the bottom of the site up to where the connection is made to the existing sewer;
- Loss of privacy;
- Loss of light;
- The site is located off a narrow lane and parking and manoeuvring of vehicles will therefore be undertaken within close proximity to the door, garden gate and gable wall of No.22 presenting a danger and a source of noise and nuisance;
- Due to the position of the Yew Tree, visibility of vehicles will be impaired;
- Public footpath access is required to the end of the lane, this is used heavily on a daily basis;
- A fire hydrant is located within the immediate vicinity of access to the site;
- Does not comply with policy NE4 of the Local Plan – Area of Outstanding Natural Beauty;
- The proposal would represent the development of a Greenfield site;
- The use of traditional building materials should be used; and
- Refuse collection lorries and recycling lorries cannot reverse down the lane.

9. Planning Considerations

Principle of Development

Extant outline planning permission exists for the erection of a detached dwelling and detached single garage on this site (ref: 11/00312/OUT). The principal of development on this site has therefore already been established.

Design and Appearance and impact on AONB

Policy C3 of the Local Plan states that new development will be permitted subject to a number of criteria including, inter alia: respect for the local character and distinctiveness of the area with regard to design, size, scale, density, massing, materials, siting and layout of the proposal.

Policy NE4 of the Local Plan considers that in Areas of Outstanding Natural Beauty, priority will be given to the conservation and enhancement of the natural beauty of the landscape.

Properties within the surrounding area are a mixture of architectural styles and designs, Nos.22 and 24 Gaston Lane to the north are three storey at the highest point, Lea House and the host property No.9 Gaston Lane to the west are two storey and Glencairn to the

north west and Rowans, Kingston and West Haven to the south west are modern bungalows. The scale of the proposed dwelling at two storey with a maximum ridge height of 7.5 metres would be appropriate within this context.

The layout of the proposed dwelling and garage are broadly similar to that already approved. The building line along the south east of Gaston lane facing the public right of way is not uniform although the proposed dwelling would broadly respect the siting of adjacent properties and would be set back approximately 6.5 metres from this boundary. It is noted that the garage would project further forward but given that this would be limited to single storey it is not considered that this would be harmful to the character or appearance of the surrounding area.

The proposed dwelling and garage would be rendered under a reconstructed stone tile roof. The neighbouring property No.22 is rendered and it is considered that these materials would be acceptable in this location. Conditions requiring the construction of a render sample and the submission of tile samples are recommended.

The proposed development would be situated within the Settlement Framework Boundary within a predominantly residential area. It is not therefore considered that the proposed development would have a harmful or detrimental impact on the natural beauty of the Area of Outstanding Natural Beauty.

The scale, massing and layout of the proposed dwelling would be acceptable and in accordance with policies C3 and NE4 of the Local Plan.

Amenity

Policy C3 of the Local Plan states that new development will be permitted subject to a number of criteria including amongst other things: avoid creating developments with unacceptable low levels of privacy and amenities and avoid the unacceptable loss of privacy and amenities to adjacent dwellings or other uses to the detriment of existing occupiers development.

The property has been designed to include no first floor habitable room windows in the north west elevation to avoid any overlooking of neighbouring properties. The property would be situated approximately 2.8 metres from the boundary with the host dwelling No.9 Gaston Lane and the first floor element would be situated approximately 10 metres from No.22 Gaston Lane at its closest point. A condition is recommended to ensure that no first floor habitable rooms windows are placed in either the north east or south west elevations to ensure the privacy of these properties is protected. A further condition is recommended to ensure that the first floor hallway window in the north west elevation be obscurely glazed.

The proposed dwelling would come no closer to No.22 Gaston Lane than layout approved at outline and would be situated approximately 8.5 metres from this property at single storey level and 10 metres at two storey level and would be orientated to the north west. No.22 has two dining room windows and a kitchen / dining room window at ground floor in the south elevation facing the application site and a second floor, secondary bedroom window, the primary window being situated in the west elevation. The proposed garage would be situated approximately 4.8 metres from the boundary with No.22.

Owing to the orientation of the property and the single storey element being closest to No.22 together with the distance from this property, the proposed development would not result in overshadowing of No.22 that could be regarded as material and would warrant a refusal on these grounds.

With regard to the proposed garage, an existing stone wall forms the boundary at this point with a height of approximately 1.6 metres, furthermore, the proposed garage would be single storey with maximum dimensions of 2.2 metres to eaves level and 4.2 metres to the ridge with a pitched roof that slopes away from No.22.

The proposal would result in the subdivision of an existing plot. The host property No.9 Gaston Lane would retain a garden with a depth and width of approximately 29 x 12.5 metres respectively and therefore retains sufficient amenity space.

In consideration of the above the proposed development would not be materially detrimental to the amenities of neighbouring occupiers in terms of overlooking or overshadowing.

Trees

Policy NE14 of the Local Plan states that permission will not be granted for proposals that would result, or be likely to result, in the loss of trees, hedges, lakes / ponds or other important landscape or ecological features that could be successfully and appropriately incorporated into the design of the development.

An existing Yew tree is situated along the sites northern boundary to the east of No.9 and the west of the proposed access. This tree is in good condition and is situated in a prominent position, visible from the wider public realm. The plans indicate that this tree would be retained and the roots would be protected by a 'no-dig' driveway construction. This proposed dwelling would be situated approximately 10.5 metres from the base of the tree and no habitable room windows are proposed in the north-west elevation reducing any pressure to fell the tree.

The proposed development has been considered by the Council's tree office who considers the scheme to be acceptable subject to the imposition of a condition requiring a pre-commencement meeting on site to discuss details of the proposed work and working procedures prior to any demolition, site clearance and any development with a report detailing the results and any necessary remedial works.

Parking and Highway Safety

Policy C3 of the Local Plan requires new development to have a satisfactory means of access, turning, car parking and secure cycle storage and not result in a detrimental impact upon highway or pedestrian safety.

In December 2010, minimum car parking standards were introduced. As part of these standards, the Council has taken the view that garages are no longer allocated parking provision, except where the garage has minimum dimensions of 3 x 6 metres allowing for potential storage, whilst also providing parking. Two car parking spaces are required for a three bedroom property.

The proposed garage would measure 3.4 x 6.4 metres and a further 2 car parking spaces are proposed. The proposal therefore complies with minimum standards.

The principle of vehicular access in this location was accepted as part of the extant outline scheme (ref: 11/00312/OUT) and the principle has therefore already been established. In response to this application, the Public Rights of Way team have recommended that the applicant undertake before and after surveys of the public right of way. However, this is not a condition of the extant consent and it would not therefore be reasonable to impose such a condition to this consent.

Concern has been raised from residents in relation to pedestrian safety given that a gate is situated at the eastern end of Gaston Lane providing access to a public footpath and given the proximity of the proposed access to the garden gate and main pedestrian access to No.22. An acceptable visibility splay would be provided and sufficient space is provided within the site to enable cars to enter Gaston Lane in a forward gear. In light of the above, a refusal on the grounds of pedestrian safety could not be substantiated.

The proposed development would not be detrimental to highway safety in accordance with the aims and objectives of policy C3 of the Local Plan.

Provision of public open space and affordable housing

Policy CF3 of the Local Plan requires new housing development to make provisions for open space. Where it is not possible to make that provision directly, the Council will accept financial payments to remedy deficiencies in the quantity or quality of that space. The reasoning accompanying the policy emphasises that all residential developments, regardless of scale, have the potential to contribute to an increased need for open space.

For a 3 bedroom property the level of public open space contribution required would be £5,820. This would be directed towards facilities at Court Street Recreation Ground.

Policy H6 of the Local Plan relates to affordable housing in rural areas and states that the Council will seek to negotiate an element of affordable housing to meet local needs on all housing developments, within the framework boundaries of the villages on the basis that about 50% of the dwellings permitted will be subsidised housing with an additional proportion of low cost housing, subject to local need and site characteristics.

The Council's housing team have confirmed that where a single market dwelling is proposed an off-site financial contribution of £26,000 is required.

Subject to the applicants entering into a Section 106 agreement under the terms outlined above the proposal would be acceptable in this respect.

10. Conclusion

The principal of development and access have been established through the granting of the extant consent (ref: 11/00312/OUT). The scale and layout of the proposal is considered to be acceptable in the context of the surrounding area and the proposal is not considered to result in an unacceptable impact upon the residential amenity of surrounding properties.

Sufficient car parking and manoeuvring space is provided within the site and the proposed development would not be detrimental to highway safety.

RECOMMENDATION

DELEGATE to Area Development Manager for APPROVAL subject to the applicant entering into a legal agreement under S.106 of the Town and Country Planning Act 1990 in respect of the provision of a financial contribution towards public open space and affordable housing, as required by policies CF3 and H6 of the adopted North Wiltshire Local Plan 2011 and subject to the following conditions:

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

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

- 2 No development shall commence on site until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include:-

- a) location and current canopy spread of all existing trees and hedgerows on the land;
- b) full details of any to be retained, together with measures for their protection in the course of development;
- c) a detailed planting specification showing all plant species, supply and planting sizes and planting densities;
- d) finished levels and contours;
- e) means of enclosure;
- f) car park layouts;
- g) all hard and soft surfacing materials;

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

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

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

- 4 No development shall commence on site until a sample panel of the render to be used on the external walls not less than 1 metre square, has been made available

on site, inspected and approved in writing by the Local Planning Authority. The panel shall then be left in position for comparison whilst the development is carried out. Development shall be carried out in accordance with the approved sample.

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

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

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

- 6 No part of the development hereby permitted shall be first occupied until the access, turning area and parking spaces have been completed in accordance with the details shown on the approved plans, 'Proposed Site Plan' 3909/53 Rev B. The areas shall be maintained for those purposes at all times thereafter.

REASON: In the interests of highway safety.

- 7 No development shall commence on site until visibility splays have been provided in accordance with the approved plan 'Proposed Site Plan' 3909/53 Rev B with the wall reduced in height to 1 metre for 3 metres either side of the access as demonstrated. Such splays shall thereafter be permanently maintained free from obstruction to vision above a height of 1 metre above the level of the adjacent carriageway.

REASON: In the interests of highway safety.

- 8 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking or re-enacting or amending that Order with or without modification), the garage hereby permitted shall not be converted to habitable accommodation.

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

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

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

- 10 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country

Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking or re-enacting or amending that Order with or without modification), no habitable room windows, doors or other form of openings other than those shown on the approved plans, shall be inserted in the north west or south west elevations at first floor level of the development hereby permitted.

REASON: In the interests of residential amenity and privacy.

- 11 Before the development hereby permitted is first occupied the first floor hallway window in the north west elevation shall be glazed with obscure glass only and the windows shall be permanently maintained with obscure glazing in perpetuity.

REASON: In the interests of residential amenity and privacy.

- 12 A pre-commencement site meeting shall be held and attended by the developer's arboricultural consultant, the designated site foreman and a representative from the Local Authority to discuss details of the proposed work and working procedures prior to any demolition, site clearance and any development. Subsequently and until the completion of all site works, site visits should be carried out on a monthly basis by the developer's arboricultural consultant. A report detailing the results and any necessary remedial works undertaken or required shall be submitted to and approved in writing by the Local Planning Authority. Any approved remedial works shall subsequently be carried out under strict supervision by the arboricultural consultant following that approval.

REASON: In order that the Local Planning Authority may be satisfied that the trees to be retained on site will not be damaged during the construction works and to ensure that as far as possible the work is carried out in accordance with best practice.

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

3909/53 Rev B (Proposed site plan)
3909/51 Rev B (Proposed floor plans & elevations)
3909/54 (Proposed floor plan & elevations of garage)
3909/02 (Site location)

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

INFORMATIVES TO APPLICANT:

The applicant should note that the grant of planning permission does not include any separate permission which may be needed to erect a structure in the vicinity of a public sewer. Such permission should be sought direct from Thames Water Utilities Ltd / Wessex Water Services Ltd. Buildings are not normally allowed within 3.0 metres of a Public Sewer although this may vary depending on the size, depth, strategic importance, available access and the ground conditions appertaining to the sewer in question.

Please be advised that nothing in this permission shall authorise the diversion, obstruction, or stopping up of any right of way.

The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on land outside their control. If such works are required it will be necessary for the applicant to obtain the landowners consent before such works commence.

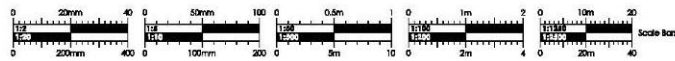
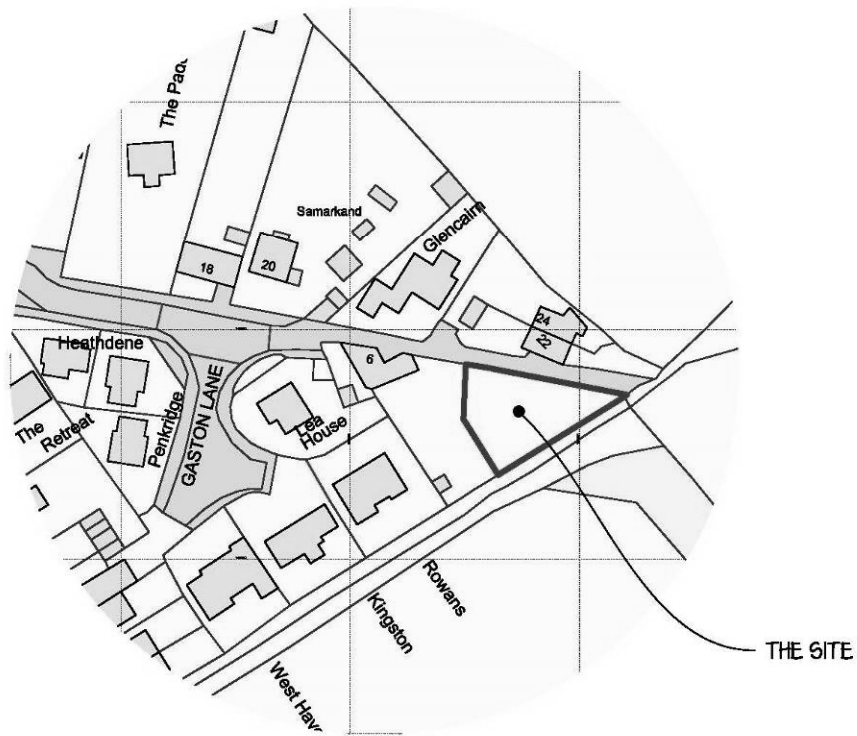
If you intend carrying out works in the vicinity of the site boundary, you are also advised that it may be expedient to seek your own advice with regard to the requirements of the Party Wall Act 1996.


Please note that Council offices do not have the facility to receive material samples. Please deliver material samples to site and inform the Planning Officer where they are to be found.

Any alterations to the approved plans, brought about by compliance with Building Regulations or any other reason must first be agreed in writing with the Local Planning Authority before commencement of work.

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REV	DETAIL OF REVISION	Dimensions for fixed-in items are to be checked on site prior to manufacture.	BY	DATE
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	Project PROPOSED NEW DWELLING, LAND AT 9 GASTON LANE, SHERSTON, WILTSHIRE, SN16 0LY	Scale 1:1250	PG Size A4
	Description SITE LOCATION PLAN	Date DEC '13	Drawn -
		Drawing No 3909/02	Revision -