

AGENDA

Meeting: Northern Area Planning Committee
Place: Council Chamber - Council Offices, Monkton Park, Chippenham,
SN15 1ER
Date: Wednesday 4 June 2014
Time: 6.00 pm

Please direct any enquiries on this Agenda to Kirsty Butcher, of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 713948 or email kirsty.butcher@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 Mollie Groom	Cllr Sheila Parker
Cllr Chris Hurst	Cllr Toby Sturgis
Cllr Peter Hutton (Vice-Chair)	Cllr Anthony Trotman (Chairman)
Cllr Simon Killane	Cllr Philip Whalley
Cllr Howard Marshall	

Substitutes:

Cllr Desna Allen	Cllr Bill Douglas
Cllr Glenis Ansell	Cllr Dennis Drewett
Cllr Chuck Berry	Cllr Howard Greenman
Cllr Mary Champion	Cllr Jacqui Lay
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 **14 May 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 Wednesday 28 May 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**

To consider and determine planning applications detailed below.

- 6a **14/03701/FUL - Beckett House, Nettleton Green, Nettleton, Chippenham, SN14 7NU** *(Pages 7 - 12)*
- 6b **13/00958/VAR - Oaksey Park, Lowfield Farm, Oaksey, Wiltshire.** *(Pages 13 - 70)*
- 6c **14/02971/OUT - Dyson, Tetbury Hill, Malmesbury, SN16 0RP** *(Pages 71 - 84)*

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 14 MAY 2014 AT COUNCIL CHAMBER - COUNCIL OFFICES,
MONKTON PARK, CHIPPENHAM, SN15 1ER.**

Present:

Cllr Chuck Berry (Substitute), Cllr Christine Crisp, Cllr Peter Hutton (Vice-Chair),
Cllr Simon Killane, Cllr Mark Packard, Cllr Sheila Parker, Cllr Toby Sturgis,
Cllr Anthony Trotman (Chairman) and Cllr Philip Whalley

Also Present:

47 Apologies

Apologies were received from Cllr Hurst and Cllr Groom.

Cllr Groom was substituted by Cllr Berry.

Following the Full Council meeting on Tuesday 13 May 2014, a number of changes were made to the Northern Area Planning Committee membership. With immediate effect, Cllr Marshall was made a full Committee member with Cllr Bill Douglas a substitute.

48 Minutes of the previous Meeting

The minutes of the meeting held on Wednesday 23 April were presented.

The Chairman confirmed that concerns had been raised that the policy reasons cited for the refusal of application 12/03594 – Octavian, Eastlays, Gastard, Wiltshire, SN13 9PP, would not be sufficiently robust in event of appeal. Officers had confirmed that the policy reasons given at Committee were sufficient. Members could raise additional policy reasons in the event of appeal.

Resolved:

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

49 **Declarations of Interest**

There were no declarations of interest.

50 **Chairman's Announcements**

There were no Chairman's announcements.

51 **Public Participation and Councillors' Questions**

The Committee noted the rules on public participation.

52 **Wiltshire Council Heddington 5 (part) Rights of Way modification order 2014**

A statement of objection provided by Andrew Fenwick was circulated to, and understood by members prior to the meeting and a copy of this objection was attached to the minutes.

Cllr Geoff Dickerson spoke in support of the application.

The Officer introduced the Rights of Way report which recommended that the Wiltshire Council Heddington 5 (part) Rights of Way Modification Order 2014 be sent to the Secretary of State for Environment, Food and Rural Affairs with the recommendation that it be confirmed as made.

She explained that an application had been received to record the area concerned as a by-way open to traffic. This application was not considered within the year period, and as a result an appeal was made to the Planning Inspectorate, who directed Wiltshire Council to consider the case. Following consideration, Wiltshire Council refused the application, and this decision is currently under appeal.

The matter before the Committee concerned an order to define the full width of the area as footpath. A representation and an objection were received and as a result the Order must be sent to the Inspectorate for determination.

There were no technical questions.

Members of the public addressed the Committee as detailed above.

In the debate that followed members thanked the officer for her clear and comprehensive report.

In was resolved;

That the Wiltshire Council Heddington 5 (part) Rights of Way Modification Order 2014 be sent to the Secretary of State for Environment, Food, Rural Affairs with the recommendation that it be confirmed as made.

53 **14.02367.FUL and 14.02730.LBC - Church House, The Street, Grittleton, Chippenham, SN14 6AP**

John Armstrong and Cllr Johnny Walker spoke in support of the application.

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

He explained that the application was for a side extension to enclose a swimming pool on a grade II listed property. Under the proposal, the existing single story extension would be contained within the pool enclosure.

The Committee had the opportunity to ask technical questions of officers and it was confirmed that a previous planning application had been refused and that the conservation officer objected to the enclosure of the area. The enclosure would consist of timber frame with brick work to match existing buildings.

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

The local member, Cllr Scott was absent and Cllr Sturgis addressed the Committee on her behalf. He expressed support for the scheme and highlighted that the proposal did not impact on the south frontage of the building.

It was resolved to;

In respect of 14/02367/FUL

To delegate to the Area Development Manager to grant permission subject to conditions:- to agree materials, submission of sample panels and other relevant conditions necessary in relation to works affecting a listed building.

In respect of 14/02730/LBC

To delegate to the Area Development Manager to grant consent subject to conditions appropriate to address works to a Listed Building.

Reason:- The proposed development is necessary to support the on-going use of the Listed Building; Will not result in significant harm to the heritage asset including the Conservation Area; and reflects previous historic development at the site.

54 **14.02154.FUL - Rose Cottage, Corston, Malmesbury, SN16 0HD**

Phillipa Metcalfe, Keith Metcalfe and Cllr Roger Budgen spoke in support of the application.

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

He explained that although the site was attached to a grade II listed building, the site itself was not listed. The proposed extension would replace a large conservatory. The applicants sought an extension to their property due to the poor health of their son. Pre-application discussions had occurred, and alterations were suggested and accepted but were later rejected following advice that it would result in insufficient space for the applicant's son. The existing buildings had a clear hierarchy, the removal of which officers believed would negatively impact the adjacent listed building.

The Committee then had the opportunity to ask technical questions of officers and it was confirmed that the proposed extension was the same footprint as the existing conservatory. It was also confirmed that the site was stepped back from the adjacent listed building.

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

The local member, Cllr Thomson spoke in support of the application noting the benefit of removing the conservatory, the personal circumstances of the applicant and the lack of objection in the locality.

In the debate that followed, the Committee noted the benefits of removing the conservatory and the need to consider the needs of the family.

It was resolved to;

Delegate to the Area Development Manager to grant planning permission subject to conditions to agree materials.

55 **14.01293.OUT - Oak Hill House, Upper Seagry, Chippenham, Wiltshire, SN15 5HD**

Simon Chambers spoke in support of the application.

The Chairman drew attention to the late observations which were circulated at the meeting and later published as a supplement.

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

He explained that although the site was beyond the village boundary. The site was located in the garden of another property.

There were no technical questions.

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

The local member, Cllr Greenman was absent.

In the debate that followed, the Committee noted the need for affordable housing in Wiltshire and the open location of the site.

It was resolved to;

Refuse planning permission for the following reasons:

The proposed development, by reason of its location, siting and lack of justification as a rural exception site represents an unwarranted residential development outside of the development framework boundary contrary to Policies H4 and H7 of the adopted North Wiltshire Local Plan 2011 and Policies CP2, CP10 CP44 and CP48 of the emerging Wiltshire Core Strategy.

The level of development proposed is likely to result in a layout and relationship with the street and surrounding area that represents a detrimental intrusion into the adjacent countryside and harmful to the character and appearance of the area. The proposal therefore fails to accord with Policies C3 and NE15 of the adopted North Wiltshire Local Plan 2011 and Sections 6, 7 and 11 of the National Planning Policy Framework.

In accordance with the NPPF there is a deliverable 5 year supply of land for housing in place and there are no other material considerations that outweigh this position. As such, the balance of considerations is such that planning permission should not be granted having regard to policies H1 & H4 of the North Wilts Local Plan and CP2, and CP10 of the Draft Wiltshire Core Strategy and guidance in the National Planning Policy Framework, in particular at paragraphs 12, 14, 17, 47, 49, 150, 183, 184, 185, 196, 209, 210, 211, 212, 214, 215, 216.

The proposed development does not make any provisions for securing affordable housing on the site or financial contributions towards open space on the site, community facility, indoor leisure provision. The application is therefore contrary to Policies C2, H5 and CF2 & CF3 of the North Wiltshire Local Plan 2011.

56 **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

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

REPORT TO THE AREA PLANNING COMMITTEE

Date of Meeting	4 th June 2014
Application Number	14/03701/FUL
Site Address	Beckett House Nettleton Green Nettleton Chippenham SN14 7NU
Proposal	Proposed New Vehicular Access & Change of Use of Land for Parking
Applicant	Mr & Mrs B Holt
Town/Parish Council	NETTLETON
Ward	BY BROOK (Cllr Scott OBE)
Grid Ref	381797 178523
Type of application	Full Planning
Case Officer	Alison Grogan

Reason for the application being considered by Committee

Called in By Cllr Scott for the committee to consider the parking issues in the village.

1. Purpose of Report

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

Nettleton Parish Council supports the application. The application has attracted two letters of objection and one letter raising some concerns.

2. Main Issues

- Principle of development Policies C3, NE4 and NE15 of the adopted North Wiltshire Local Plan 2011 and Section 11 of the National Planning Policy Framework
- Impact on the surrounding Area of Outstanding Natural Beauty
- Highway Safety and Parking Provision

3. Site Description

Beckett House is a semi-detached property located off a narrow lane. The dwelling is L shaped with enclave parking in front of the property. The residential curtilage is to the north of the dwelling and is the width of the dwelling, forming a triangular shape along the boundary with the lane. An area of land approximately 38m by 13m to the rear of the

property is enclosed with a post and rail fence. A section of wall along the rear boundary of the residential curtilage appears to have been removed and opened up into this land.

The site is within an Area of Outstanding Natural Beauty.

4. Planning History

N/96/01047/FUL Alterations to Dwelling

5. The Proposal

The proposal is to create a new vehicular access from the lane and change of use of an area of agricultural land to parking. Whilst the access will be formed within the established curtilage, the driveway and parking will measure approximately 13m by 11m on agricultural land.

6. Consultations

Nettleton Parish Council – Support the application as it will provide an improvement in safety for both the applicant's family and for other users of the narrow road alongside the property.

Highways – The proposal will provide an improved arrangement on that which is currently provided. No objection subject to condition.

8. Publicity

The application was advertised by site notice and neighbour consultation.

One letter, whilst not objecting to the application itself, raised concerns regarding possible access difficulties and disruption whilst the works take place and requesting that the applicant takes responsibility for any damages if they are incurred.

Two letters of objection have been received, a summary of the key issues raised are detailed below:

- Proposal results in a clear change of character and form of the land which acts as a buffer between the residential development in the locality and the established agricultural land;
- The site is within the AONB and the change of use would not preserve that established and protected characteristic;
- Regardless of any conditions, the change would inevitably result in a proliferation of residential clutter and related landscaping that is not a feature of the landscape or AONB at present and would further detract from the rural setting ;
- The car parking should be relocated adjacent to the oil tank and shed in front of the removed stone wall, reversing directly onto the land does not pose a hazard as vehicular movements are minimal in the adjacent land, being served by only three other properties;
- Application is part retrospective and contentious;
- The site can be viewed from both public footpaths and roads to the North, East, West and South;
- It is a site of significant heritage and comprises surviving Saxon settlement earthworks and medieval archaeology;

- Object to the unauthorised demolition and removal of the historic, stone boundary walls to the East of Beckett House, would want to see this remediated to ensure the heritage of the entire setting;
- Refer to the refusal of application 13/04291/FUL at the Granary – much of the deliberation of that application at committee is relevant to this application;
- The legal parking requirements already exist at the site

9. Planning Considerations

The key consideration in respect of the proposed development is the visual impact on the character and appearance of the locality and the designated Area of Outstanding Natural Beauty. The area of land this change of use relates to is significant as it incorporates a turning area in addition to the vehicular parking.

Visual Impact on the Area of Outstanding Natural Beauty

The site provides a buffer between the existing residential development in the area and it is visible from public vantage points. The proposal will extend the residential activities at this dwelling into the agricultural land and given the scale of the proposed works it is considered that the proposal will introduce an intrusive form of development within the open rural character of the area

There is also a concern regarding the area of land to the south of the site and to the rear of Beckett House which has been fenced off, particularly as part of the garden wall has been removed and opened up into this land. The area appears more as lawn rather than rough pasture and the agent was contacted to provide further information regarding the use of this land and has responded as follows:

“The owners of Beckett House have purchased an area of former agricultural land abutting the rear wall of their dwellinghouse but with the exception of the land the subject of the current application they have no present intention of seeking planning permission to change the use of the land to residential curtilage. As the land became available, Ben and Clare Holt purchased the portion abutting their property with the primary purpose of securing their boundaries and to create the opportunity for improved parking/turning clear of the highway to serve their property.

Since the completion of the purchase, the land has been used on an occasional basis for family events hence the mowing. The total of the periods of use has been less than 28 days annually.

The removal of the section of wall was necessary to allow access of plant while work was being undertaken to the sewage treatment plant serving the dwelling.”

The government advice given in the National Planning Policy Framework indicates that great weight should be given to conserving the landscape and scenic beauty in an Area of Outstanding Natural Beauty. Policy NE4 of the North Wiltshire Local Plan, also reinforces the requirement that proposals should conserve or enhance the natural beauty of the landscape and be sited or designed so as to minimise its impact.

It is acknowledged that conditions can be used to restrict ancillary residential structures, but inevitably the land will change in form and appearance with hardsurfacing and vehicular parking. Whilst the agent has indicated that landscaping can be used to mitigate visual impact, unfortunately this would further introduce features in the landscape that currently do not exist.

It is not considered that there are any material considerations including defined public benefit that would mitigate or justify this level of impact on the natural beauty of this rural landscape.

Highway Safety and Parking Provision

Highways have raised no objection to the proposal in this respect subject to a condition relating to a consolidated access.

It is acknowledged that the proposal would not create a highway safety issue. However, parking already exists at this site and additional parking could be created within the established residential curtilage without the need to encroach into the agricultural land.

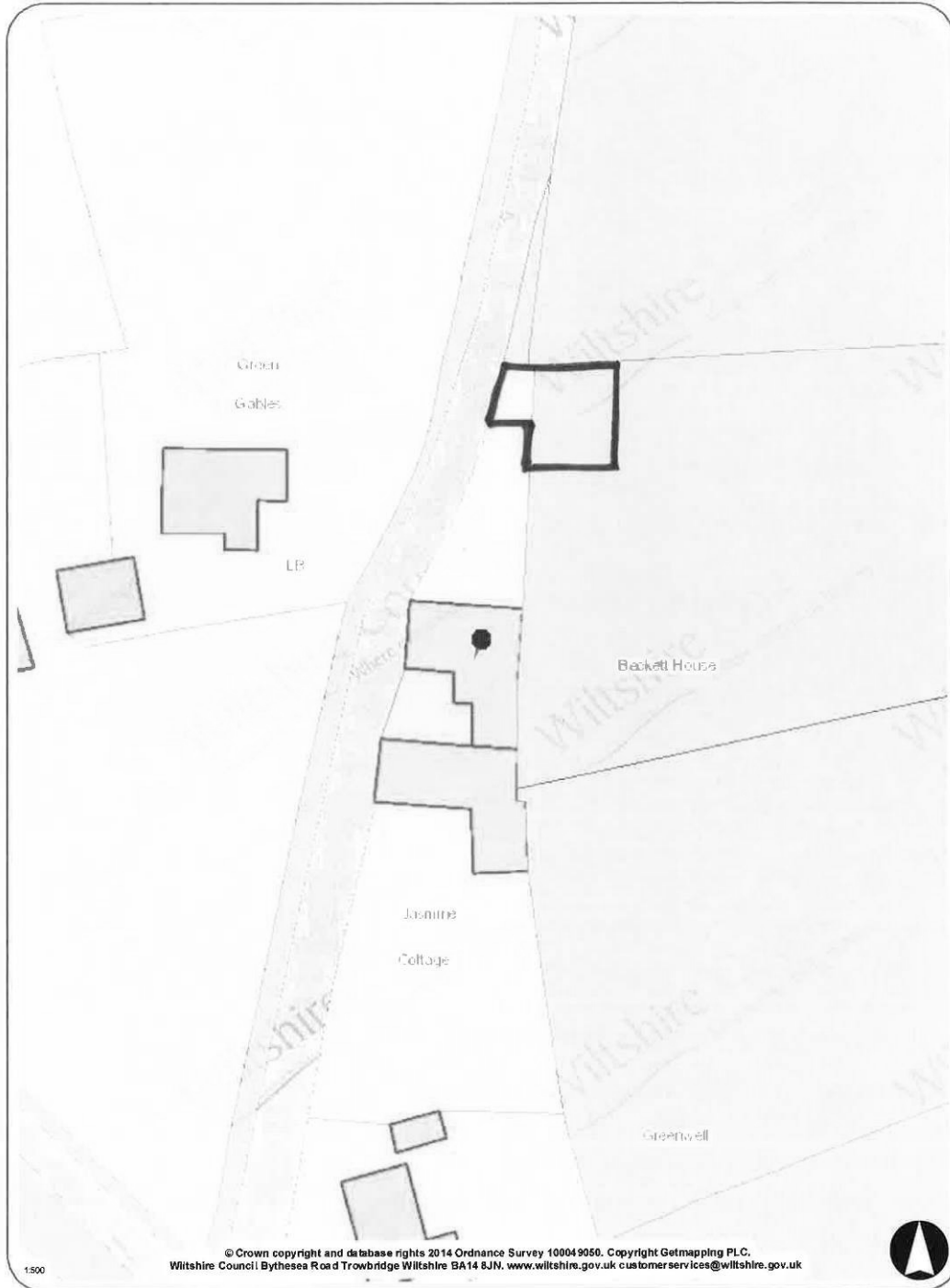
10. Conclusion

In conclusion, it is considered that the proposal would have a significant impact on the surrounding natural environment that is harmful in visual terms to the character and appearance of the landscape and the Area of Outstanding Natural Beauty. It is not considered that there are any material considerations including defined public benefit that would mitigate or justify this level of impact. The proposal is considered contrary to Policies C3, NE4 and NE15 of the North Wiltshire Local Plan 2011 and conflicts with the advice given in Section 11 of the National Planning Policy Framework.

RECOMMENDATION

The application be REFUSED for the following reason:-

1. The proposed development results in a significant change to the open rural nature of the area and does not preserve the character or appearance of the landscape and defined Area of Outstanding Natural Beauty which is harmful and not justified by any overriding material considerations. The proposal is in conflict with policies C3(ii), NE4 and NE15 of the North Wiltshire Local Plan 2011 and Section 11 of the National Planning Policy Framework.



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REPORT TO THE AREA PLANNING COMMITTEE

Date of Meeting	4 th June 2014
Application Number	N/13/00958/VAR (previously 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 Parish Council
Ward	Minety (Cllr Berry)
Grid Ref	399464 194156
Type of application	Full Planning
Case Officer	Lee Burman

Reason for the application being considered by Committee

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 Application was withdrawn from the 23 April 2014 Committee to allow consideration and assessment of further information submitted by objectors by Officers as advised by Chesterton Humberts. A further opportunity for a range of interested parties was then allowed for further final submissions to be made and for these also to be assessed by Officers and Chesterton Humberts.

The report for the Committee of 23/4/14 is attached at Appendix A. 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 remained unchanged.

The following report addresses the additional submissions received and the consideration and assessment of this information by the Council's advisors Chesterton Humberts and their conclusions.

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 and conditions.

2. Report Summary

The main issues 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;

Whether or not the properties have been marketed appropriately and at valuations reflecting the restrictive occupancy conditions;

The evidence available to support arguments for or against viability and for marketing and valuation.

The principles of the development proposal.

Oaksey Parish Council maintain their objection to the proposal and summarise these objections as follows:-

- Non-viability has not been proven
- The application is entirely for the profit of the applicant
- WCC planning has not followed proper planning procedures
- WCC planning makes generalisations in the report which are not fact
- WCC make a fundamental error in the assessment of access
- There are glaring inconsistencies in the report
- The application does not conform to the Local plan or NPPF 55 despite WCC's claim that it does.
- Amenity (Waste, parking etc) has not been duly considered
- Highways have not given due consideration to the application
- Education needs have not been considered adequately
- The application for only 8 units is one of convenience and any application should be for the entire development

Since the previous deferral of the Committee report submissions supporting objections to the scheme have been received from 2 Local Residents. The submissions support their objection that the Holiday Let scheme is viable and that the properties have not been marketed effectively or at realistic prices. Objections are also raised in respect of the adequacy of the access to the site for vehicular traffic generated as result of the unrestricted residential use of the properties.

The representations received previously are summaries in the report attached at Appendix A

3. Site Description

As per the report attached at Appendix A.

4. Planning History

As per the report attached at Appendix A.

5. The Proposal

As per the report attached at Appendix A.

6. Planning Policy

As per the report attached at Appendix A. In addition it should be noted that objectors have asserted that paragraph 55 of the National Planning Policy Framework provides a basis for the assessment of the proposals and sound justification for the refusal of the application. This is addressed in the report contained at Appendix A but to summarise paragraph 55 NPPF specifically relates to new residential development within rural areas, including the change of use of existing buildings. This is not an application for new residential development or a change of use and Paragraph 55 does not apply directly given the material circumstances pertinent to this application. Paragraph 55 is reproduced in the report to Committee contained at Appendix A.

7. Consultations

As per the report in Appendix A. In addition the applicant team and objectors, including the Parish Council, who raised major concerns in respect of the proposals and sought to submit additional information for assessment and consideration. The report to Committee was deferred by two further cycles until this meeting to allow submission, assessment of submissions and reporting. Full re-consultation with all parties was not undertaken.

8. Publicity

As per the report attached at Appendix A.

9. Planning Considerations

Principle

As noted in the planning policy section above and the previous reports to Committee this application is not a proposal for new residential development on greenfield land. It is not an application to change the use of existing buildings. It is worth repeating this fact because many interested parties are in disagreement in this respect. The buildings are in place, they are currently in use for a form of residential occupancy (Dwellings and Holiday Lets are within the same Use Class – C3) albeit of a restricted nature and the original grant of permission and subsequent permissions granted at the site all allow for this form of residential usage of the site. This application seeks to further vary and remove conditions applied to previous permissions in respect of 8 of the constructed properties to allow for wholly unrestricted residential occupancy on the basis that there is no interest in purchasing the Holiday lets and that the business as a whole is financially unviable. Therefore as a matter of fact this is not an application for new residential development on Greenfield, previously undeveloped land and the application cannot be assessed in those terms or under national and local planning policies relevant to applications for such new residential development. This is not a change of use application for example agricultural buildings to residential. This application has specific material circumstances pertinent to its determination not addressed by para 55 i.e. financial viability and market interest in the business or individual properties at the site. It is considered that para 55 does not provide a policy basis for determination of this application and no sound and defensible basis for the refusal of the application.

Market Viability Appraisal and Additional Information Submissions

The Council has received the following additional information submissions:-

- Equimedia Report 5/9/14 for Oaksey Parish Council

- Oaksey Parish Council comments on Officer report to Committee
- Price Waterhouse Cooper Oaksey Park Ltd Administration Reports
- Correspondence From Objectors received by 9/5/14
- Rycal Investment Group marketing documents and related objector correspondence
- Oaksey Park Limited Company Accounts period to 31/12/10
- Strutt and Parker Marketing Documentation received from Objectors 17/4/14
- Applicant Correspondence received by 9/5/14
- Strutt and Parker Marketing Viability Assessment Update 9/5/14

All of the documentation, except the 2010 company accounts, was published to the Council's website upon receipt. The Council requested and received Company accounts for the period to the end of 2010. This contained sensitive financial information. The Council queried with the applicant's representatives whether or not this was available in any other forum/public domain and it was confirmed that it was not. The information has therefore not been published to the Council's website following advice received from the Freedom of Information and Legal Teams. The information was submitted to Chesterton Humberts for review and assessment. In summary the information shows a net loss for the period to 31/12/2010, however Chesterton Humberts consider that the accounts relate not solely to the Holiday Let units, including the Golf Facilities, and have therefore not relied on or given substantial weight to this information. Similarly Chesterton Humberts assess that the Price Waterhouse Cooper Administration reports also include accounts for the Golf Facilities and have again not relied on this information or given this substantial weight.

The Council forwarded all of these documents to Chesterton Humberts and issued instruction that these be assessed in full and consideration given as to whether or not the conclusions in the previous Chesterton Humberts report were affected in any way at all; if so to then provide revised conclusions. A revised report from Chesterton Humberts was published in full and un-redacted in any way to the Council's website on 27/5/14. This report is reproduced at Appendix B and the conclusions in that report are reproduced in full as follows:-

8. Conclusion

It is my opinion that under current market conditions the lettings business, consisting of 20 cottages, of which 8 are the subject of the planning application, does not represent a viable business as it has not shown an adequate return for an investor.

With regard to the viability of selling the individual properties, while the marketing of the 8 units by Rycal was unconventional and not employing the usual marketing tools, they did apparently identify purchasers for the property who agreed prices acceptable to the applicant and would have been prepared to proceed with the purchase had reasonable funding been available.

The difficulty of both arriving at a suitable value and achieving a sale of one of a restricted property has been highlighted by the double failure of the offering of Unit 1 at auction in February and April of this year.

Accordingly I am of the opinion that the proposition of disposing of the 8 units to individuals genuinely seeking holiday homes is unviable in this location.

Furthermore Council officers met with the author of the report to discuss the assessment and conclusions and to ensure that all the submitted information had been assessed and to raise some concerns identified by objectors and seek a response.

The Author confirmed that all information submitted had been reviewed in full. It was confirmed that the submitted information of objectors including the marketing information of Strutt & Parker (copied to Council 17/4/15) and the report for Oaksey Parish Council of Equimedia did not provide convincing and fully justified evidence that the holiday let business was indeed viable as is asserted by objectors. The Strutt and Parker marketing information identifies that it is marketing information that excludes certain substantive costs. The inclusion of such costs renders the business loss making. Even reduced costs burdens comparative to other similar business operations result in loss making, unviable operations or returns so low that they do not represent an attractive or reasonable business investment. The Equimedia report is based on income assumptions and cost reductions that are considered by Chesterton Humberts to be both unrealistic and unreasonable. As noted above both the 2010 Company Accounts and the Price Waterhouse Cooper administration accounts include data relating to the Golf Facilities at the site and are not exclusively accounts relating to the Holiday lets as such Chesterton Humberts have given these limited weight in their assessment. The Rycal Investment Group marketing information has been reviewed and is referenced in the revised Chesterton Humberts reports as unconventional. It is noted that expressions of interest and offers were received. Contrary to objectors assertions it is concluded that the offers were not supported by firm financing and did not materialise. The Author also concludes, contrary to objector's submissions, that the recent unsuccessful efforts (two separate public auctions) to auction property 1 at the site (in private ownership) at significantly reduced costs are relevant and are indicative of a lack of demand and proceedable interest for these properties with the conditions attached. Indeed weight is given to this actual sales process in the absence of further marketing post 2012 (it should be borne in mind that the application was submitted in 09/04/2013). The Author was specifically asked to comment further on the submissions that the Rycal marketing effort which produced offers for properties at the site. This is addressed in the attached report but to be clear the author considers that the available evidence, including the Strutt and Parker Market Viability Assessment Update, demonstrates that these offers were not supported and followed through with provision of finance and funding i.e. no banks or building societies would lend to the individuals to proceed with the purchases/offers.

The Price Waterhouse Cooper Administration reports have been assessed and as noted have been given limited weight as they include data for the Golf Facilities. However, these accounts appear to show net losses for every period covered except one – the period to 6/12/2011 where a small net profit of £741 is shown. The information was submitted by Oaksey Parish Council alongside the Equimedia report on the basis that this showed a significant profit in the depths of recession thereby highlighting the viability of the business. Officers met with Oaksey Parish Council following this submission on 15/5/14 at which it was requested that Oaksey Parish Council specify where in the submitted PWC reports the references to profits were shown. No response has been received at the time of writing. Officers and Chesterton Humberts cannot find any statement or section in the PWC Administration reports that specifically states or demonstrates a profit other than the single period to 6/12/2011. This level of profit (£741) during one single period is not considered to represent an attractive business investment and does not demonstrate that the business is viable.

It has been submitted by individual objectors and Oaksey Parish Council that Chesterton Humberts is not independent in this assessment as the company has previously marketed properties at the site. The Author of the Chesterton Humberts report confirmed that he and his specialist leisure colleague with whom he consulted in the preparation of the report had no prior involvement in and / or any knowledge of a previous period of marketing by the Chesterton Humberts. It should be noted that the marketing referred to by objectors took place was in 2008 and was undertaken by Humberts Leisure – predecessor company to the current Chesterton Humberts organisation, which was sold by Humberts prior to the formation of the current company. A London based office of Humberts Leisure undertook that work. The report informing determination of this application was prepared by staff from the Chippenham and Taunton Offices of Chesterton Humberts. The companies and staff members involved are wholly different and separate. On this basis it is considered that the report authors have been and remain wholly independent.

In conclusion it is considered that full opportunity has now been given to all interested parties to make their submissions and for these to be fully assessed. It is considered that the advice received by the Council from Chesterton Humberts is comprehensive, independent and sound. The conclusions of Chesterton Humberts clearly remain that the current whole business (20 holiday let units) is unviable as a going concern. In order to generate any business interest in the site and for it to operate as a viable and attractive business a combination of substantial cost reductions alongside significant investment would be required. These cost reductions require significant debt write offs by investors/creditors which is considered unreasonable and unrealistic. Similarly it is concluded that the individual 8 properties the subject of this application have been effectively marketed and at reasonable prices. Further that it has been demonstrated that there is no proceedable interest in the purchase of the properties individually with the restrictive occupancy conditions attached. Furthermore in order to generate any interest in the individual properties the valuations would need to be reduced to a level substantively below construction costs resulting in significant losses to the owner/applicant. It is not considered reasonable for a Local Planning Authority to determine applications on this basis i.e. to apply unrealistically low valuations in order to test the market as to whether or not other parties would be prepared to try and make the development a going concern or to generate individual sales as Holiday lets. There is no guarantee that this would result in a successful business operation or the long term retention of the individual properties as holiday lets. It should be noted that Chesterton Humberts consider that there are constraints to the success of a holiday let business of this scale in this location. This has been the Council's position since the development was first proposed and subsequently allowed on appeal. Whilst the Council's position has effectively been proven to be correct the reality is that the development has been constructed. It is Officers' opinion that operating the planning system in a manner that imposes such restrictions on an on-going basis regardless of material circumstances is inappropriate and unreasonable. Such an approach is disproportionate to the impacts of the application proposal. In this respect is worthwhile reiterating once again that this is not a new residential development.

Additional Matters – Waste Collection, Education Requirements, Open Space Requirements, Access & Parking

These matters are addressed in the report contained at Appendix A. In addition, and following the further submissions of interested parties received since the 23/4/14, officers comment as follows:-

As regards waste collection the Council's waste collection services operate at the site. Bins are provided. A condition is now proposed to ensure that sufficient space at the agreed collection point is made available in perpetuity for all occupants of the 8 dwellings the subject of this application and the remaining properties at the site regardless of their occupancy.

As regards Education the Council's Education Department has an adopted methodology for calculating requirements that is applicable to the site and future proposals should they emerge. This policy approach and related calculation methodology is kept under review and has recently been updated as approved at the Council's cabinet as of 18th March 2014. Officers are confident that the calculation methodology ensures that there is no disadvantage considering the proposals in phases as opposed to one whole application.

The Council's Open Spaces team identified a requirement for a Locally Equipped Area for Plan (LAP) arising from the unrestricted use of all 20 units. The unrestricted use of 8 units alone does not create a justifiable need under adopted national and local policies for such provision. Council officers have devised and agreed a methodology for on-site provision of the LAP should the whole 20 units come forward for removal of restrictive occupancy conditions. Details as to the form, layout and position of the LAP will be agreed at that time.

The position regarding access and Highways Officers input is addressed in full in the additional comments added at the end of the report contained at Appendix A.

As regards the remaining 12 existing properties at the site these will need to be the subject of marketing to demonstrate any lack of demand for these properties with the restrictive conditions attached. A grant of permission in respect of the 8 properties that are the subject of this application does not establish a precedent at the site that must be followed regardless of any other material considerations.

10. Conclusion

Whilst it is recognised that there is substantial local opposition to the unrestricted residential occupancy of the use of the holiday lets at this site the Council has sought to assess the application proposals on the basis of relevant material considerations and all material circumstances. It must be noted that this is not an application for new residential development at this site. The proposal cannot be considered in these terms. The Council has sought independent advice in respect of the viability of the site as whole holiday let business and in terms of the marketing and disposal of the properties. The conclusions have been reviewed several times by the author and in the light of a range of information submissions and representations by a range of interested parties. The conclusions remain that the holiday let business as a whole is unviable in this location. Also that both the business as whole and the 8 units that are the subject of this application have been effectively marketed and at reasonable valuations. It is further concluded that there is no proceedable interest in the business as whole or in respect of the 8 units as individual properties with the restrictive conditions attached. It is not considered that any other material considerations either cumulatively or individually indicate that the proposal should be refused.

RECOMMENDATION

To delegate authority to the Area Development Manager to grant planning permission subject to the signing of a Section 106 agreement and subject to the following conditions:

1. 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.

2. 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.

3. 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.

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

REASON: To prevent an inappropriate independent use.

5. 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.

6. 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.

7. 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.

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

9. Within one month of the date of this permission proposals for the provision and on-going retention of space for the storage of Wheelie Bins at the collection point agreed with Wiltshire Council refuse and waste collection services. The proposals shall include details and arrangements for the management of the space to ensure adequate provision for wheelie bins to serve all properties at the site.

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.

Appendices:

1. **Deferred Report to Committee 23 April 23-4-14**
2. **Chesterton Humberts Report 23/5/14**

Background Documents Used in the Preparation of this Report:

Chesterton Humberts Report 23/5/14
Equimedia Report 5/9/14 for Oaksey Parish Council
Oaksey Parish Council comments on Officer report to Committee
Price Waterhouse Copper Oaksey Park Ltd Administration Reports
Correspondence From Objectors received by 9/5/14
Rycal Investment Group marketing documents and related objector correspondence
Oaksey Park Limited Company Accounts period to 31/12/10
Strutt and Parker Marketing Documentation received from Objectors 17/4/14
Applicant Correspondence received by 9/5/14
Strutt & Parker Market Viability Assessment Update 9/5/14
Deferred Report to Committee 23 April14

**REPORT TO THE NORTH AREA HUB
PLANNING COMMITTEE**

Report No.

Date of Meeting	23 rd 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 play space 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 play space 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 forward 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 a 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 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 that the business as 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
- Hosesasons 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 demonstrates 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 Things 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.

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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.

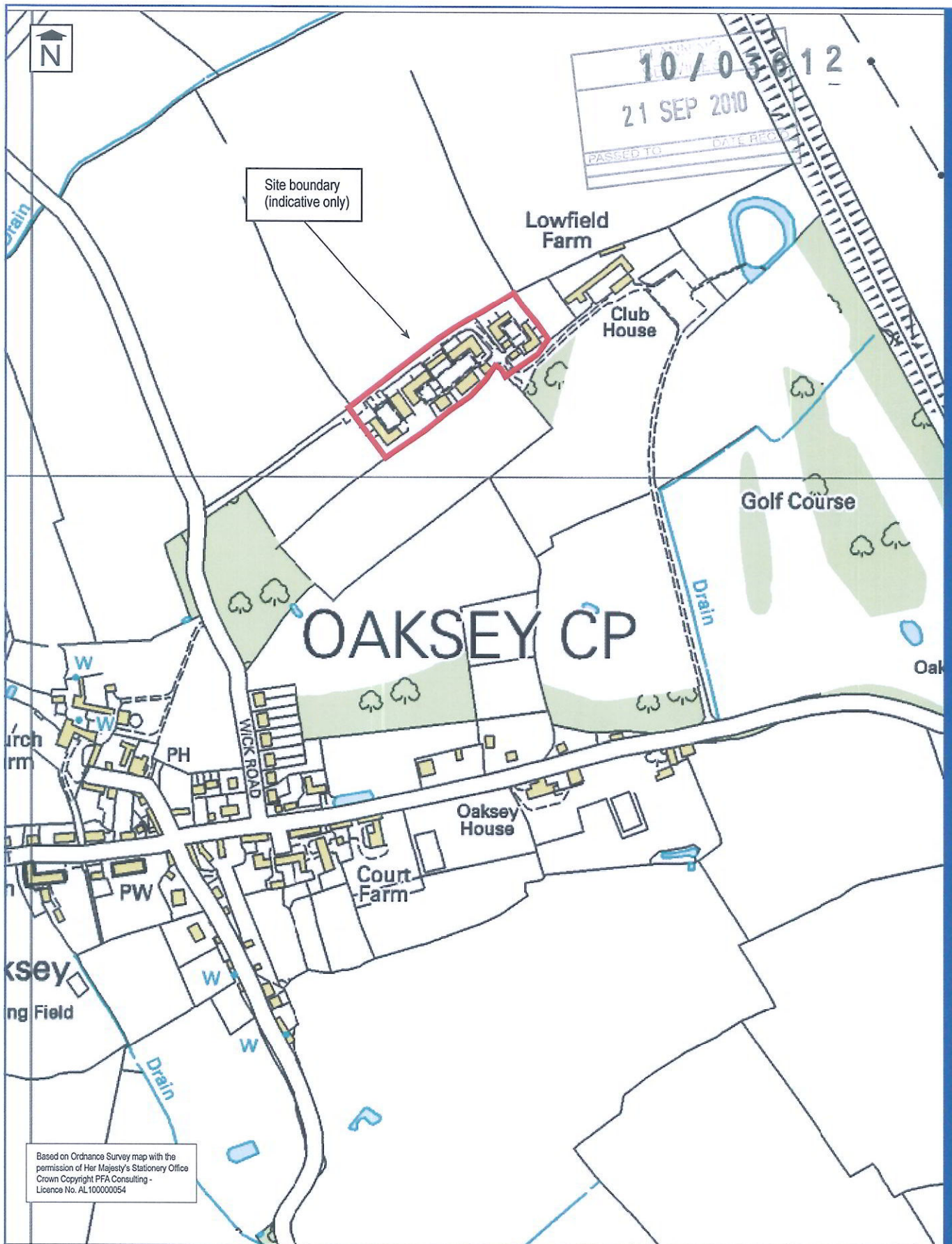
We look forward to receiving your written confirmation that the determination of this Application will be deferred as above mentioned.

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

Yours faithfully

A handwritten signature in blue ink that reads "Thrings LLP".

Thrings LLP



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 Wanborough Road
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Client
Oaksey Park Ltd
Page 45

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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ASSESSMENT OF MARKETING & VIABILITY

**Prepared by G M Harford FRICS
Consultant: Chesterton Humberts**

20th May 2014

**Oaksey Park Cottages
Oaksey
Malmesbury
Wiltshire SN16 9SB**

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1. Introduction:

- 1.1 Chesterton Humberts has been instructed by Wiltshire Council to assess the marketing and viability reports submitted to support the revised application for planning permission which has been submitted on behalf of Oaksey Park Limited for the removal and variation of conditions contained in the previous planning applications relating to residential occupancy in respect of 8 of the holiday cottages forming part of the development known as Oaksey Park Cottages.
- 1.2 The properties were inspected on Friday 13th September 2013 by Gerald Harford FRICS.
- 1.3 The conclusions reached in respect of this assessment will be on the basis that it is prepared by an independent expert.
- 1.4 This report will comply with the requirements of the Royal Institution of Chartered Surveyors as set out in "Surveyors Acting as Expert Witness – Practice Statement".

2. Statement of Truth and Qualifications:

- 2.1 I confirm that this assessment has been prepared in accordance with the relevant practice statements published by the Royal Institution of Chartered Surveyors (RICS). I confirm that Chesterton Humberts have the necessary experience to provide an opinion on the subject matter and that the evidence is produced in accordance with the rules of the RICS.
- 2.2 I am Gerald Mark Harford, a Consultant Surveyor to Chesterton Humberts, Chartered Surveyors based at their Chippenham Office at Kings Head House, 35 Market Place, Chippenham, Wiltshire SN15 3HT. I am a Fellow of the Royal Institution of Chartered Surveyors (1986).
- 2.3 Chesterton Humberts was formed by the merger of the long established chartered surveying firms of Chesterton and Humberts in January 2009 with both firms having origins in the first part of the 19th century. The merged firm offers a wide range of property expertise being a multi-disciplined practice with integrated expertise in the rural, commercial, residential, leisure and professional services sector.

2.4 I have been based at the Chippenham Office, formerly Humberts now Chesterton Humberts, since 1987 and have specialised in professional work relating to commercial, development and leisure properties in the Wiltshire area.

2.5 The firm is a panel valuer for Royal Bank of Scotland/National Westminster, Barclays, Lloyds TSB, Handelsbanken and other banks active in the UK commercial property market and has handled a number of valuation instructions relating to the acquisition and disposal of leisure and holiday letting premises in the South West of England. The firm has also been involved in the disposal and acquisition of leisure and holiday letting premises with a specialist department based in the Taunton Office.

3. Instructions:

3.1 I have been instructed by Wiltshire Council (The Council) to prepare an assessment of the holiday lettings business and the marketing programme for the sale of Nos. 12-19 Oaksey Park Cottages as set out in the supporting reports prepared by Strutt & Parker, Accounting by Design and LPC Town & Country Planning Development Consultants. My instructions are extended to look at further information forwarded by the applicant in addition to that supporting the planning application which includes, inter alia, an update to the Market Viability Report prepared by Strutt & Parker. I have also been instructed to consider the submissions of various individuals who oppose the planning application together with the "Market Overview – Oaksey Property Ltd" submitted by Equimedia.

4. The Property:

4.1 Location & Situation

Oaksey is a popular and attractive Wiltshire village situated some 5 miles (8 kms) to the north east of Malmesbury and 6 miles to the south west of Cirencester.

The village lies in open, fairly level countryside accessed by small country roads and is a sought after residential location.

Oaksey Park Cottages forms part of the leisure development consisting of a nine hole golf course, club house, the holiday cottage complex and six converted one bed units (the Cowsheds) known as Oaksey Park developed at Lowfield Farm which lies on the eastern edge of the village.

The development is accessed by a long drive made of compacted hardcore running through the golf course to the Club House, Lowfield Farmhouse, the Cowshed units and the holiday letting complex (the subject of this report) which lies beyond.

The whole site is clearly in need of further investment and has an appearance which could, at best, be described as 'tired'.

4.2 Description & Site History

The holiday cottage complex is a development intended to be of 37 two and three bedroom holiday lodges for which planning consent was granted on appeal in 2004 with construction being commenced in 2005. The first eleven cottages (Unit nos. 1 - 11) were constructed and five (nos. 1, 2, 4, 7 and 9) were sold with the sales being completed between February 2005 and February 2007 (see attached Appendix I).

The construction of the cottages continued with fourteen further units (Units 12-25) being completed but with the economic downturn becoming apparent in the autumn of 2007 sales did not proceed. In the meantime the twenty unsold units have been managed as a holiday letting portfolio which in the year to 2008 appeared from the accounts prepared by Accountancy by Design to generate a turnover of £265,750. This enterprise was not able to cover costs, largely due to the cost of servicing debt. As a result maintenance appears to have been minimal and all 20 units would benefit from further investment.

In the autumn of 2011 Strutt & Parker marketed the whole golf course and cottage letting business as a single leisure investment opportunity at a guide price of £3,000,000. This appears to have been unsuccessful.

This was followed by a renewed bout of marketing of some of the properties on an individual basis at substantially reduced asking prices towards the end of 2012 which resulted in offers being received through Rycal Investment Group acting as agents for the applicant for eight properties (Units 12-19) at prices varying from £134,200 up to £154,650. The lowest of these refers to the 2 bed cottage type 'Kemble' (which had achieved a sale price of £206,000 in April 2006) up to the 3 bed 'Marlborough'.

These figures indicate the dramatic reduction in value for these properties, about 34% for the cheaper 2 bedroom units, the 'Kemble' and more for the three bedroom units.

More to the point is the fact that all of the sales agreed in January 2013 for the disposal of units 12-19 failed to proceed because it appears that the purchasers were unable to achieve funding for the purchase of the properties.

4.3 **Tenure**

I understand that all of the transactions referred to above were proposed to be done on the basis of a 999 year lease at a low ground rent.

5. **Planning**

The original planning application (02/01841/FUL) for a complex of the 37 holiday cottages was approved in 2004 which set out a number of restrictions on the use of the units. This consent was subsequently varied in a series of applications, most importantly by the Notification of Planning Decision in respect of Application Ref. No. 10/03612 on 2nd February 2011. Although restrictions were reduced, the central element of this decision contained in conditions 8, 9 & 10 was that the buildings should be used for holiday accommodation only and for no other purpose and that they should not be occupied as a person's sole or main place of residence.

6. **Proposal**

The planning application, which is the subject of this assessment, has been varied and now seeks the removal of these planning restrictions (conditions 8, 9 & 10 of permission no. 10/03612 and condition 7 of 02/01841/FUL) with the effect that Unit

Nos. 12, 13, 14, 15, 16, 17, 18 and 19 will have an unrestricted residential use (Use Class C3 – Dwelling House). The other completed units, being the five sold units (nos. 1, 2, 4, 7 & 9) and the other retained units (nos. 5, 6, 8, 10 & 11 and 20, 21, 22, 23, 24 & 25) are not covered by the application.

7. Considerations in Assessing the Viability and Appropriate Marketing of the Units

History and Background to the application

The planning application No. N/13/00958, application registered 9th April 2013, originally sought the removal of conditions 8, 9 and 10 imposed on application ref. 10/03612/S73A which varied condition no. 7 of 02/01841/FUL and APP/J3910/A/04/1145607 allowing the unrestricted residential occupancy of the units. The first Assessment of Marketing and Viability carried out by myself and dated 4th October 2013 only dealt with Unit Nos 12-19 (8 in total). The reason for this was that these were the only units which were the subject of marketing by Rycal Investment Group and the application was not specific as to which units were covered and whether or not the units that had already been sold were to be included.

Once the situation was clarified with the effect that the 20 units still in the ownership of Cotswold Property Ltd and being run as a holiday letting business were included in the application a further Assessment of Marketing and Viability was prepared dated 16th December 2013.

The planning application has subsequently been varied and is now limited to Units 12-19 (8 in total).

General Considerations

Viability and marketing assessments and the differences of opinion surrounding them will often to a considerable extent be subjective. It is often argued by those who oppose applications for a change of use that if the value of the property in question, capital or rental, was dramatically reduced then many businesses, whether they be retail, public house or holiday lettings, would have a much better chance of being viable. Accordingly assessing the value of the property as the basis for a viability or marketing assessment is difficult and it is unusual that a figure would be acceptable to both the applicants proposing the change of use and those who seek to oppose it.

In this particular case the applicants have argued that the value of the property should reflect the construction costs. I do not accept this since the whole of the Oaksey Park scheme appears to have been a serious commercial misjudgement for which those responsible have to accept the consequences.

On the other hand I do not believe that lowering the property value to a diminutive amount to reduce funding costs and overheads is reasonable and I would like to think that by following reasonable assumptions as to values with appropriate discounts based on what comparable evidence is available to arrive at figures that would be equitable in the light of the arguments from opposing points of view.

Viability of the Holiday Letting Business

It would appear that for some considerable time the holiday letting business (Cotswold Property Ltd) has consisted of all 20 units and it is on that basis that the accounts which have been submitted in connection with the Viability Assessment have been prepared. The original Viability Assessment dealt with the accounts for the year ending 31st December 2008 which showed a turnover of £265,750 which was the highest level achieved for some years. Although not part of the planning application, further figures have been provided to me by Mr Mark Crocker in the form of the Strutt & Parker accounts summary – Cotswold Property Ltd – Profit and Loss Summary which was contained in their marketing material when attempting to sell the business in 2011. My instructions have now been extended to include consideration of these figures in my assessment. These figures show in addition to the turnover of £265,750 for the year ending 31st December 2008 a turnover of £317,134 for the year ending 31st December 2009 and a figure of £372,308 for the year ending 31st December 2010. See Appendix I.

These figures broadly support my original view as set out in my report of December 2013 suggesting that there could be a modest 19% improvement in turnover with a reduction in administrative costs and this is exactly what the figures for 2009 show. The key factor in this was the reduction in the figure for 'other interest' of £222,375 for the year ending 31st December 2008 to £118,057 for the year ending 31st December 2009 with loan interest again at only £116,161 for the year ending 31st December 2010.

The management accounts for the first four months of 2011 showing turnover of £108,287 which indicate that with the high season yet to come, in all probability the turnover achieved the previous year was likely to be sustained or possibly bettered.

The management accounts show a loss for the year ended 31st December 2009 of £28,677, even with a dramatic reduction in interest payable and a net profit of £50,662 for the year ended 31st December 2010.

I note that this relatively small profit was achieved to some extent as a result of there being a reduction in repairs and maintenance and wages which, at only £24,325 do not appear to contain any element of management or Director's fees. The lack of investment in the units will, in my view, create a problem in the future which will impact on future profitability.

To my mind a key element in assessing the viability is the question of funding. This can be done on an assessment of interest payable, as in the Strutt & Parker accounts summary, the application of a rental value as a return on capital, or by a recognition of opportunity costs.

In arriving at a reasonable allowance one has to consider what a purchaser of the property might pay for the 20 unit holiday lettings business. At an average of only £90,000 per unit, this would show a total property value of £1.8million and on the basis of an interest or opportunity cost charge of 6.5% would produce an annual funding cost of £117,000. This is more or less exactly what the figures for 2009 and 2010 show.

As I pointed out above, the figures for the year ending 2010 and the figures for the first four months of 2011 show that both wages and expenditure on repairs and maintenance are possibly unrealistic and unsustainably low and that anybody looking to purchase this business would have to substantially increase this allowance. I suggest that this increase in costs would eliminate the bulk of the small net profit being shown for the year ending 31st December 2010.

I suggest that the figures shown in Appendix I are not sufficient to encourage someone to purchase this business as even the accounts submitted by Strutt & Parker suggest that the net profit of £50,000 shows only a 15% return on

expenditure. I do not doubt that Strutt & Parker's marketing of the business in 2011 was comprehensive and their failure to find a purchaser confirms this view. I understand that an offer for just the holiday letting complex would have been entertained.

I do not dispute that were the 20 units to be valued at £1million, as suggested in Equimedia's representations, the reduction in interest or opportunity costs could lead to a more sustainable net profit but to value the cottages at an average of £50,000 each, less than a quarter of the sale price achieved in 2006 and barely half the construction cost, may not be considered reasonable.

I have had sight of the Market Overview – Oaksey Property Ltd prepared by Equimedia which argues that the business has potential to be profitable and therefore viable. Put simply, the main basis of this argument is that the company, Cotswold Property Ltd (as opposed to Oaksey Property Ltd) could achieve annual average occupancy at 60% with interest based upon a £1million value at 6.5% interest per annum. These figures, which generate the £143,000 profit suggested, require a gross turnover of in the order of £465,000.

I have to accept that the management of Cotswold Property Ltd used their best reasonable endeavours to maximise turnover and hold down administrative costs. I believe that the optimism of the Equimedia figures cannot be supported and that to obtain a 60% occupancy as suggested is unrealistic as there appear to be so few "leisure" attractions. Apart from the nine hole golf course and the uninspiring club house there appear to be no other facilities or nearby visitor amenities, the countryside is undramatic and not interesting for walkers or bird watchers, there is no proximity to water as at the Cotswold Water Park with the associated sporting possibilities or wildlife interest and no linkage to any cultural, tourist or retail attractions.

Finally one has to recognise that the property was marketed by Strutt & Parker with the accounts summary showing the £50,000 net as operating profit for the year ending December 2010 and no offer was received. The asking price to include the golf course, club house, the holiday lettings complex, the 12 undeveloped plots and 6 cow shed units was in the order of £3million. Bearing in mind my suggested value of the 20 holiday cottages of £1.8million I consider this asking price to have been not

overly ambitious and the possibility of a bid for just the Oaksey Park Cottages was not precluded.

It should be noted that all of the above figures relate to the 20 holiday letting units (rather than the 8 which are the subject of the current planning application). In my report of October 2013 I stated that in the market's general experience the minimum practical size for management purposes of the holiday letting business (as opposed to a farmer or householder who happens to have developed a few on their property), about 15 units is the minimum size to be viable, less than this tends to attract a disproportionately high level of management costs and other overheads.

Were the planning application to be granted and the user clause extended to C3 dwelling house and the 8 units, which are subject to the application, sold to homeowners then the number of units involved in the holiday letting business would fall to 12. In my view this would seriously further prejudice the potential viability of that business.

I would stress that the above comments refer to the Strutt & Parker accounts – Cotswold Property Ltd Profit and Loss Account Summary. I did request the applicant's own accounts and have only been in receipt of the Oaksey Park Ltd – Profit and Loss Accounts to year end 31/12/2010 – which refer to the golf course and club house and therefore do not form part of this assessment. Likewise the accounts submitted by Oaksey Parish Council (PWC – Oaksey Park Limited – in administration) are not relevant as they refer to the golf course and club house business.

Assessment of Marketing

Assessing the viability of the marketing of the individual cottages restricted to holiday use as set out above (see para 5) to demonstrate that a change of use should be permitted one is dealing with a hybrid situation which is not specifically covered in the Council's Core Strategy Pre-Submission Document. Nevertheless Core Policy 39 – Tourist Development – has a target to "increase and improve facilities for sustainable tourism" and one must therefore presume that the application would run contrary to this policy.

Nevertheless the Pre-Submission Document does deal with other circumstances where applications are submitted for a change of use on grounds of viability. These are Core Policy 35 (Existing Employment Sites) and Core Policy 49 (Protection of Services & Community Facilities) both of which clearly require comprehensive marketing for a period of at least 6 months for the current use. This would therefore appear to be a reasonable template against which to assess the viability of selling the subject holiday cottages.

With regard to the marketing of the cottages individually I have been advised that Oaksey Park Ltd have on a number of occasions attempted to pursue this course of action in respect of the eight units which are the subject of the current planning application.

The most recent and complete picture of this is provided by the efforts of Rycal Investment Group who marketed the units toward the end of 2012 and were during the course of January 2013 able to find purchasers for Nos. 12-19 on the following basis:

Unit 12 Kemble	2 bed	£134,200
Unit 13 Kemble	2 bed	£134,200
Unit 14 Kemble	2 bed	£134,200
Unit 15 Kemble	2 bed	£134,200
Unit 16 Kemble	2 bed	£141,400
Unit 17 Marlborough	3 bed	£154,650
Unit 18 Marlborough	3 bed	£154,650
Unit 19 Charlton	3 bed	<u>£147,850</u>
Total		£1,135,350

It was agreed that all eight cottages were to be sold on 999 year leases fully equipped and fully furnished. All of which would be supplied by the John Lewis Partnership.

These figures show a discount in the order of 30% from unrestricted C3 units to the cottages subject to the restrictions currently contained in the planning consent. Notwithstanding we have been advised that all eight of these transactions failed to proceed because of the inability of purchasers to obtain funding.

From Chesterton Humberts' experience in marketing holiday lodges in the current climate it is apparent that it would be difficult to obtain any substantial level of mortgage funding for the acquisition of these cottages subject to the restriction that they should be used for holiday accommodation only and for no other purpose and that they should not be occupied as a person's sole or main place of residence.

These restrictions, inter alia, would result in the owners not having access to a number of local services such as children's education.

I believe that these restrictions would be sufficient for many mortgage lenders or banks to decline an application. In general over the past year funding has become easier for house purchase but as matters stand this improvement in the availability of mortgage lending has not extended to properties where there are any difficulties in justifying a value by onward sales. Accordingly any potential buyer would have to be a cash purchaser.

In their addendum to their Market Viability report Strutt & Parker conceded that Rycal's marketing "was not a normal marketing approach" and relied on "tapping into their client portfolio". Notwithstanding they succeeded in producing potential purchasers at what appear to have been roughly realistic prices. In my view the marketing of the 8 units appear to have been very limited both in terms of advertising (of which I have seen no information) and in time scale, which seems to have been restricted. Likewise I have never seen any sales particulars and accordingly one has to question Strutt & Parker's assertion that the marketing "was an attempt by Oaksey Park Ltd to leave no stone unturned".

In my report of December 2013, bearing in mind the failure of the Rycal marketing, I suggested that it might have been possible to find cash purchasers who were prepared to complete acquisitions had the 8 units been marketed with local and national advertising using a recognised estate agent and at asking prices varying from £90,000 for the smallest 2 bedroom unit to £130,000 for the largest 3 bedroom

units. At the time this was written some of the units which had originally been sold were back on the market and a 2 bedroom units was being marketed by R A Bennett of Cirencester for a considerable period quoting a guide price of £190,000 without success.

More importantly, since the last report there has been a more serious effort to dispose of a property, Unit 1, Oaksey Park Cottages by auction.

No. 1, a 2 bedroom bungalow unit (Kemble) with a gross internal area of 947 sq ft was initially offered by Auction House, Gloucestershire in their sale at Thornbury Castle on 19th February quoting a guide price of £150,000 but failed to sell. The same unit was offered again at auction on 16th April by the same auctioneer with a guide price of £125,000 and again failed to reach its reserve. Contrary to the opinions of Mr Kavanagh and Mr Crocker I believe that the efforts to dispose of Unit 1 offer an extremely useful indication of the value of the 8 subject properties. In fact Unit 16 is a very similar 2 bedroom bungalow and I believe this supports the contention in my earlier report that the value of the 2 bedroom units, with the planning restrictions, could probably be below £100,000 for the long leasehold interest. Rycal claim to have agreed terms for the sale of Unit 16 at £141,400 in January 2013 and while this is far in excess of my own opinion of value the fact that Unit 1 had been acquired in April 2006 at £205,000 demonstrates that Rycal and their clients appreciated the dramatic fall in value.

I have to say that I have no knowledge of Rycal Investment Group and was not aware that they acted as property agents either nationally or locally in the leisure market. Notwithstanding they apparently succeeded in producing potential purchasers at what appear to have been prices sharply reduced from 2006/2007 achieved prices and therefore possibly realistic at the time of their marketing exercise in December 2012 and January 2013. By way of additional information as to the Rycal marketing I attach at Appendix II Strutt & Parker's updated report dated 9th May 2014 which gives a fuller picture of the marketing by Rycal Investment Group with the problems associated with the restrictions.

I am in no doubt that were the prices to be reduced below those of the Rycal marketing at some level purchasers would be found to acquire the properties with the restrictions in place. Bearing in mind that there are 8 properties which are the subject of this assessment this over supply on the market would undoubtedly have a further detrimental effect on value. When considering viability I believe it is necessary to recognise that there is a point below which the values would not be considered reasonable for the purposes of a viability assessment of this sort and requiring a valuation at figures much lower than those that I am proposing would be considered inequitable not just to the applicant but also to the owners of those properties that have been sold off. Furthermore to market these units at extremely low levels might in the absence of genuine purchasers of holiday cottages invite an opportunistic buyer who would take the risk of ignoring the restrictions and simply create an isolated ghetto of poorly maintained low cost accommodation in an inappropriate location.

It should be borne in mind that the local planning authority originally opposed the planning application for the development largely because they were sceptical about the scheme's viability and consent was only achieved on appeal. In my view time has proved that now, as then, the concept of holiday homes in this location whether as a letting business or as units for sale to owner occupiers is an unviable proposition largely due to the lack of on site facilities and other attractions in the neighbourhood that would make it successful.

8. Conclusion

It is my opinion that under current market conditions the lettings business, consisting of 20 cottages, of which 8 are the subject of the planning application, does not represent a viable business as it has not shown an adequate return for an investor.

With regard to the viability of selling the individual properties, while the marketing of the 8 units by Rycal was unconventional and not employing the usual marketing tools, they did apparently identify purchasers for the property who agreed prices acceptable to the applicant and would have been prepared to proceed with the purchase had reasonable funding been available.

The difficulty of both arriving at a suitable value and achieving a sale of one of a restricted property has been highlighted by the double failure of the offering of Unit 1 at auction in February and April of this year.

Accordingly I am of the opinion that the proposition of disposing of the 8 units to individuals genuinely seeking holiday homes is unviable in this location.

Signed



Gerald Harford FRICS
Consultant, Chesterton Humberts

Strutt & Parker Accounts Summary - Cotswold Property Ltd

Profit and Loss Account Summary

Year Ended 31 December	2008 £	2009 £	Management Accounts 2010 £	Management Accounts to 30/04/11 £
<u>Sales</u>				
Holiday Cottage Lettings			361,309	104,620
Service Charges			8,500	2,833
Ground Rent			2,499	833
Gross Interest Received			0	0
			0	0
	265,750	317,134	372,308	108,287
<u>Cost of Sales</u>				
Lettings Commission	50,069	51,352	53,949	17,108
Lettings - Light and heat	27,954	35,277		
Lettings - Repairs and Maintenance	12,442	12,001		
Letting - Cleaning of Premises	22,255	2,091	2,571	200
Sundry Expenses	1,766			
Glasses, Plates and Utensils for Houses			6	0
Linen, Towels and Laundry			0	0
Room Extras			0	0
Materials Purchased			34	0
Newspapers			0	0
Holidays Lettings Expenses - Cleaning			110	0
Holidays Lettings Expenses - TV Licences			291	0
Carriage			50	0
	114,486	100,721	57,011	17,308
<u>Other Direct Costs</u>				
Advertising	6,939	1,625	0	0
	6,939	1,625	0	0
Gross Profit	144,325	214,788	315,297	90,979
<u>Overheads</u>				
Gross Wages	49,361	40,054	24,325	3,238
National Insurance	4,201	2,237		
Rent and Rates	20,833	24,409	17,837	6,834
Heat, Light and Power			24,704	14,685
Motor Expenses	3,162		1,642	621
Telephone	2,871	2,060	1,649	494
Post & Stationery	550	417	589	112
Audit and Accountancy	8,905	9,689	6,745	1,840
Professional Fees	5,189	165	8,000	1,400
Repairs and Renewals			5,993	346
Laundry and Cleaning	5,995	9,686	11,626	6,214
Waste Disposal			3,925	1,486
Bank Charges	262	1,603	1,705	871
Bank Interest	10,045	1,734	2,708	1,197
Other Interest payable	222,375	118,057		
Loan Interest			116,161	38,267
Tax Interest & Fines			1,287	0

Depreciation			27,250	9,108
Depreciation on plant and machinery	2,688	2,688		
Depreciation on fixtures and fittings	24,460	24,460		
Insurance	4,328	5,985	8,489	2,489
Donations			0	0
Suspense & Mispostings			0	0
Entertaining		60		
Sundry Expenses		161		
	365,225	243,465	264,635	89,203
Net Profit	(220,900)	(28,677)	50,662	1,776
Bank interest received	427			
<u>Sales</u>				
Ground Rent Receivable	2,500	3,571	0	0
Operating Profit	(217,973)	(25,106)	50,662	1,776
<u>Add Back:</u>				
Bank Interest	10,045	1,734	2,708	1,197
Other Interest payable	222,375	118,057		
Loan Interest			116,161	38,267
Tax Interest & Fines			1,287	0
Depreciation			27,250	9,108
Depreciation on plant and machinery	2,688	2,688		
Depreciation on fixtures and fittings	24,460	24,460		
	259,568	146,939	147,407	48,572
EBITDA	41,595	121,833	198,069	50,348



UPDATE
to
MARKET VIABILITY REPORT
dated April 2013
and
ADDENDUM TO MARKET VIABILITY REPORT
dated October 2013

**Units 12-19
Oaksey Park Cottages
Oaksey
Malmesbury
Wiltshire
SN16 9SB**

Prepared for:
Oaksey Park Limited
May 2014

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2. Comments on Market Viability Report, April 2013.
3. Comments on Addendum to Market Viability Report, October 2013.
4. Summary at 9th May 2014.

1.0 INSTRUCTIONS

1.1 We are instructed by Oaksey Park Limited to provide supporting information relating to the current planning application at Oaksey Park. This report is supplemental to our earlier Market Viability Report dated April 2013 and Addendum dated October 2013.

2.0 MARKET VIABILITY REPORT dated April 2013

2.1 As a result of the subsequent revised planning application Paragraph 2.1 should now, due to the revised planning submission, refer to 8 holiday cottages (not 20) namely Unit No's 12, 13, 14, 15, 16, 17, 18 and 19.

2.2 Paragraphs 2.2 through to 7.3 (end of report) – remain unchanged.

3.0 ADDENDUM TO MARKET VIABILITY REPORT dated October 2013

3.1 Paragraphs 1.0 and 2.0 – remain unchanged.

3.2 Paragraph 3.1 – The marketing of Units 12-19 carried out by Rycal Investment Group was targeted at their client portfolio. It produced seven expressions of interest for the eight properties. Each expression of interest was dependent upon commercial funding being available. We understand from the e-mail between Rycal and Mr Crocker dated 22nd April 2014 that with some difficulty Rycal found three lenders who showed an interest in lending against the properties on this site but, because of the restrictions these lenders felt the values were “way below” what the properties were worth. The purchase prices which Rycal believed could be achieved and that they could fund were reduced by almost 50% from the headline prices at the request of Rycal to levels well below the build cost and more significantly did not cover the existing secured funding arrangements. The reduced prices points suggested as fundable ranged from £136,000 to £148,000.

Rycal stated that there were also restrictions, being the constraints on the usage for of the properties, causing each of the potential lenders issues on funding all eight properties such that the proposal could not be progressed.

A communication from Mr Henry, the Accountant acting for Oaksey Park Limited and Cotswold Properties Limited states that he was uncomfortable with the final arrangements proposed by Rycal as this involved a piecemeal arrangement reliant upon a rotation of a £60,000 investment purse provided by Rycal. This figure would act as form of deposit within each of eight progressive transactions but would be returned to Rycal following each sale. In Mr Henry's view this over inflated both the sale value and the deposit element of each unit, with this element being returned to the broker after completion of each sale. He further advised that even with this proposal in place Rycal were unable to secure funding and Oaksey Park Group were asked to provide a tranche of unsecured, interest free, time unlimited secondary funding approximating to £24,000 per unit in order to make the arrangement work. This meant that the funds that would actually be received by Oaksey Park would range from £112,000 to £124,000. They could not accept this variation for a number of reasons, the most compelling being that it would not pay off the existing borrowing.

3.3 Paragraphs 3.6 to 3.13 refer to the individual sales arranged by Rycal on Units 12-19. The sale prices quoted differ (are higher) than the figures shown in Mr Harford's report dated 16th December 2013 (Page 6, para. 7(b)). We understand that these headline sale figures were proposed by Rycal but were subsequently reduced by up to 50% in an attempt to get the sales through. The arrangement proposed by Rycal further reduced the return on each sale by £60,000 and was later reduced by an additional sum of c£24,000 by way of an in-house mortgage in order to make the proposal acceptable to the funding market. We therefore understand that the lower figures quoted in Mr Harford's report would have been the sums finally received by Oaksey Park Ltd and Cotswold Properties Limited.

3.3 Paragraphs 4.1 and 4.2 –remain unchanged.

3.4 Paragraph 4.3 – the “inability to raise a mortgage” is, in all material respects, correct in that the lenders expressing interest could not find security at sales values sufficient enough to settle the borrowings secured against these units. We understand that a loan may have been available against these properties but these were clearly not available at an appropriate level to satisfy Rycal or on terms that were acceptable to the existing funders, the freeholder or their advisors. It was Rycal which formally withdrew from the arrangement as they “ ... could not get near to what was required on these properties the deal did not transpire.”

3.5 Paragraphs 4.4 through to 5.3 (end of report) –remain unchanged.

4.0 SUMMARY at 8th May 2014

4.1 Oaksey Park Limited had been in Administration for twenty two of the past thirty five months. During that period the Administrators PwC sought (and failed) to find a buyer for the entire site. Whilst in Administration Oaksey Park Limited were not able to market these eight units either individually or as a package. Immediately post Administration Oaksey Park Limited marketed these eight properties through Rycal but was unable to achieve sales on either an individual or group basis.

4.2 It is normally a requirement that properties are fully marketed for a period of between six to twelve months. In this instance the overall marketing carried out combined with the exceptional actions of Rycal and the comparable marketing of identical properties in the same location is believed to provide a realistic and robust assessment of the true market, sufficient for the purposes of the current application's assessment. We have already provided full details of the marketing of Unit No's 1, 2 and 9 (all not owned) by various local estate agents on behalf of the respective owners. All three properties are on the same development and of a similar construction. All three properties had an identical holiday use

restriction and all three have failed to sell, the holiday cottage restriction being cited as one of the main reasons.

- 4.3 Unit 1, which came on the market in 2010 failed to sell for the second time at Public Auction on the 16th April this year, despite a price guide of £125,000; 35% less than it would cost to build. It had a holiday restriction.

Signed Date

PAUL GROVE

Consultant

STRUTT & PARKER

Cirencester

9th May 2014

REPORT TO THE AREA PLANNING COMMITTEE

Date of Meeting	04 June 2014
Application Number	14/02971/OUT
Site Address	Dyson Tetbury Hill Malmesbury SN16 0RP
Proposal	Change of Use from Agriculture to Employment Land and the Phased Development of Commercial and Ancillary Buildings, Associated Landscaping, Car Parking, Access Roads, Permanent Footways and Helipad
Applicant	Dyson UK
Town/Parish Council	BROKENBOROUGH
Ward	MALMESBURY (Cllr. Killane)
Grid Ref	392909 188449
Type of application	Full Planning
Case Officer	Mark Staincliffe

Reason for the application being considered by Committee

The application has been called into committee at the request of Cllr Simon Killane to discuss the impact of the development on the surrounding highway network, local parking and because of the significant public response to the application.

1. Purpose of Report

To recommend that the planning application be granted outline planning permission subject to conditions.

2. Report Summary

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

- Principle of development when considered against local and national planning policies
- Impact of the development on the character and appearance of the surrounding area and adjoining AONB
- Impact of the development on the Local Highway Network

3. Site Description

The Dyson Campus is a large employment site situated on the Northern Western side of Malmesbury. It is not in a designated area although the Western side of the site is visible from an Area of Outstanding Natural Beauty. The Western site boundary is defined by a well

established mature hedgerow incorporating mature trees. There is a substantial hedge along the North Eastern Boundary which partially screens the site from public vantage points.

Immediately to the North of the site is the Tetbury Hill employment land as allocated in the North Wilts Local Plan, part of this site is occupied by Persimmon Homes Wessex. To the South East is residential development and the Beuttell Way industrial Estate.

4. Planning History

The planning history for the site and adjoining land is set out below:

13/03487/FUL	Construction of Temporary Car Parking Area (For 12 Months) and Associated Landscaping
N/99/02845/OUT	OUTLINE FOR B1, B2 AND B8 WITH HIGHWAY WORKS (RENEWAL)
N/92/02270/OUT	DEVELOPMENT FOR B1 (BUSINESS) B2 (GENERAL INDUSTRIAL) AND B8(STORAGE AND DISTRIBUTION) PURPOSES DEVELOPMENT FOR B1/B2 & B8 USE
N/92/02269/OUT	DEVELOPMENT FOR B1 (BUSINESS) INCLUDING CONVERSION OF FARM COMPLEX, B2 (GENERAL INDUSTRIAL) & B8 (STORAGE AND DISTRIBUTION) & ACCESS DETAILS DEVELOPMENT FOR B1/B2 & B8 USE
N/04/00529/COU	CHANGE OF USE OF B1 OFFICE TO DENTAL SURGERY D1 USE
N/04/03160/FUL	EXTERNAL ALTERATIONS TO EXISTING BUILDING
N/05/00783/OUT	B1 Office Development
N/05/03018/FUL	Erection of Safety & Security Infrastructure Including Perimeter Fencing, Sprinkler Water Silo, CCTV System Storage Facilities, Revised Parking, Recycling & Skip Collect
N/08/01152/REM	Reserved Matter Application for 05/00783/OUT for B1 Offices and Associated Works
N/11/01764/FUL	B1 Office Development and Associated Works
N/13/00172/S73A	Installation of Ducting and Air Conditioning Plant
13/05196/FUL	Change of Use of Existing Agricultural Land to Commercial, Construction of Permanent Car Parking Area & Associated Landscaping
13/07326/SCR	Screening Opinion as to Whether an Environmental Impact Assessment is Required in Respect of B1, B2 & B8 Facilities, Car Parking and Associated Landscaping.

5. The Proposal

The application seeks outline planning permission relating to access and landscaping and with all matters reserved for the change of use from agricultural land to Employment Land and the Phased Development of commercial buildings, ancillary buildings, hard and soft landscaping, car parking, access roads, footpaths, helipad and indoor sports hall.

6. Planning Policy

National Planning Policy Framework

- Section 1: Building a strong, competitive economy
- Section 4: Promoting sustainable transport
- Section 7: Requiring good design

Section 8: Promoting healthy communities
Section 11: Conserving and enhancing the natural environment

North Wiltshire Local Plan

C1: Sustainability
C3: Development Control Policy
C4: Business Development
NE4: Areas of Outstanding Natural Beauty
NE11: Conserving Biodiversity
NE15: The Landscape Character of the Countryside
NE18: Noise and Pollution
HE6: Locally Important Archaeological Sites
T2: Transport Assessment and Travel Plans
BD1: Employment Land
BD3: Business Development on Unallocated Sites
CF2: Leisure Facilities and Open Space

Wiltshire Core Strategy Draft Submission

CP1: Settlement Strategy
CP2: Delivery Strategy
CP3: Infrastructure Requirements
CP13: Spatial Strategy- Malmesbury Community Area
CP34: Additional Employment Land
CP50: Biodiversity and Geodiversity
CP51: Landscape
CP57: Ensuring High Quality Design and Place Shaping
CP60: Sustainable Transport
CP61: Transport and Development
CP62: Development Impacts on the Transport Networks
CP67: Flood Risk

Planning Practice Guidance

On 6 March 2014 the Department for Communities and Local Government (DCLG) launched this planning practice guidance web-based resource. This was accompanied by a written ministerial statement which included a list of previous planning guidance documents that were cancelled. The guidance is vast and is updated as needed. It's content has been considered in the preparation of this report.

7. Consultations

Rights of Way

There are no rights of way in the immediate area of the site. No objection.

Archaeology

The archaeological evaluation has resulted in the discovery of Roman remains in the southern part of the site and ridge and furrow earthworks in the north. Both of these areas require further recording, and in the case of the southern area, excavation. I would advise that some further archaeological investigation should be undertaken as a condition, if planning permission is granted.

Drainage Comment:

The site is located in flood zone 1 (as shown on the Environment Agency flood maps). The geology of the site is in the transition area of Kellaways Clay Member which would probably not be suitable for surface water infiltration techniques to be used. If the developer were to propose infiltration techniques then this would need to be confirmed by carrying out on site

permeability testing to BRE Digest 365. These results would provide confirmation of the infiltration rate and should be issued to us for review. Wessex Water would advise on the location and capacity of their existing foul and surface water systems in the area for appropriate connection.

Malmesbury Town Council:

Support the application subject to a thorough review of traffic issues (involving Beuttell Way) and that the correct technical studies are carried out.

Brokenborough Parish Council

Support subject to conditions and the following points:

1. Highways improvements completed prior to the new buildings being operational
2. Light spill from the new proposed buildings and car park.

Health and Safety Executive

No comments received

British Pipeline Association

No comments received

Highways:

"I am satisfied that the proposed improvements to the Tetbury Hill/Tetbury Road and Tetbury Road/A429 junctions will be able to accommodate the traffic from the development and likely other developments in the area. I also note the proposed minor alterations to the Whychurch roundabout to improve capacity on the southbound approach. These highway improvements will need to be completed prior to the development being brought into use.

As far as the third party objections are concerned, other than the issue of highway capacity which I am satisfied has been addressed, there appear to be two main issues. These are the effect on Beuttell Way and the difficulty in crossing Tetbury Hill adjacent to the residential development.

Discussions have been held between the applicants and the occupiers of the premises on Beuttell Way and a solution has been agreed which will route more of the Dyson traffic through the main entrance and reduce the traffic using Beuttell Way, especially during the peak periods. The internal alterations required to achieve this will be the subject of a future planning application.

In respect of the difficulties in crossing Tetbury Hill, the development will result in some increase in traffic on Tetbury Hill. Improved pedestrian crossing facilities could be provided just south of the junction with Beuttell Way and the provision of these has been agreed. Again, this could be secured by condition."

No objection.

Landscape & Design:

"I have read the submitted Landscape & Visual Assessment. In my opinion the scope and content of this assessment is balanced, proportionate and representative and therefore satisfactory in my view for the LPA to make an informed decision on potential Landscape and visual change effects to be expected resulting from the proposed development. I raise no issues with the submitted Landscape and Visual Assessment, and do not raise any 'in principle' landscape reasons which would culminate in a reason for refusal."

Ecology

It is considered that this application is broadly in accordance with our local policies and statutory duties with regards to nature conservation, however conditions (or amendments to other conditions) are recommended to ensure that relevant issues are fully addressed at subsequent stages of planning, and throughout the construction and operational phases of development.

- Any reserved matters application should be supported by Phase 2 botanical survey work and a reptile survey, with recommendations for appropriate and proportionate mitigation / compensation measures for losses of priority / BAP habitat and protection of reptile populations. Landscape plans submitted at the FUL / REM stage should also make provisions for the recommendations of the botanical survey.
- Any condition for a Construction Management Plan to be approved prior to commencement should make provision for protection of habitat features and protected species during the construction phase
- Any condition for a Landscape Management Plan should include a clear requirement for long-term sensitive ecological management of all semi-natural habitat types to ensure the development of priority habitat types (as recommended in the botanical survey above), and secure the maintenance of the protected species populations.

8. Publicity

The application was advertised by site notice, press advert and neighbour consultation. 07 households have supported the application and 26 households have objected to the application. Summary of key relevant points raised are set out below;

Support (7):

- Good for the economy.
- Will result in job creation within Malmesbury.
- New roundabout and highway improvements are needed and a benefit to the area
- Will bring lasting prosperity to the area

Object (26):

- 3 new entrances into the site will not work
- Development will result in more traffic heading towards the Town Centre when leaving the site
- Highway solution should be altered to further minimise public road congestion, and thus preventing damage to other businesses and residential areas
- Hazardous for pedestrians crossing towards the top of Tetbury Hill
- A controlled pedestrian crossing is required
- The large built area will increase water flow down the hill
- Vast majority of the new employees will be from outside the town resulting in traffic problems
- Benefits will be marginal in terms of local employment and commerce, while the pressure on the infrastructure will be considerable
- Size and scale of the development is too large
- Adverse impact on the character of the area and the adjoining AONB.
- Will result in overlooking
- The second entrance/exit should be a no right turn when leaving the site
- Crossing Tetbury Hill on foot is unsafe, the development will make it worse
- Beuttell Way is not owned by Dyson
- The increased volume of traffic will have an adverse impact on the existing businesses in Beuttell Way

- Loss of agricultural land
- Harm to ecology of the area
- Harm to archaeological remains
- inappropriate and unsustainable industrial development
- No attempt has been made to assess the potential traffic impact on Tetbury, Brokenborough, etc
- The development will add significant extra housing pressures
- The Wiltshire Core strategy does not allocate any strategic employment sites for Malmesbury neither does the neighbourhood plan.
- adverse environmental impact on the AONB & Brokenborough
- Unsustainable location

Malmesbury & St Paul Without Residents' Association

Support. The application covers many areas of technical detail which the Association is not competent to comment upon and is therefore content to rely on the assessments of the appropriate Wiltshire Officers.

Persimmon Homes

The Council needs to consider:

- The proposals and policies set out in the emerging neighbourhood plan such as the housing allocation
- Extant planning permission adjacent to the application site- N/11/01764/FUL
- Staff using the Phase 2 car park can safely access existing facilities
- The impact any fencing may have on proposals set out in the neighbourhood plan
- Noise relating to the proposed energy centre and its impact on surrounding development
- Proposed lighting and its impact on the AONB
- The monitoring of the helicopter landing space

Copies of all representations and consultation responses are available for inspection on the Council's website and Council Office at Monkton Park.

9. Planning Considerations

Policy and Principle

Under section 38(6) of the Planning and Compulsory Purchase Act 2004 decisions on applications for planning permission must be taken in accordance with the development plan, unless there are material considerations that indicate otherwise. However, annex 1 of the NPPF states that from the day of publication, decision-takers may give weight to relevant policies in emerging plans according to:

- the stage of preparation of the emerging plan
- the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework

At the heart of the NPPF is a presumption in favour of sustainable development. The overarching principles of sustainable development requires developers and local planning authorities to:

- Support the transition to a low carbon future;

- Encourage the effective use of land by reusing previously developed land;
- Encourage multiple benefits from land;
- Make the fullest possible use of public transport, walking and cycling and;
- Improve health, social and cultural wellbeing for all.

Concerns have been raised by local residents that the proposal is contrary to CP13 as the site is not listed a principle employment area within the policy. However, the policy clearly stipulates that the Dyson Site will be supported in accordance with CP35 and CP1. Policy CP16 lists Marnesbury as a Market Town. It is envisaged that Market Towns have the potential for development that will increase the jobs and promote better levels of self containment and viable sustainable communities. It is considered that the proposed development is consistent with the approach set out in the CS.

The site of the existing Dyson buildings are designated as a Principle Employment Site and therefore subject to policy CP34 & CP35 of the emerging Core Strategy (CS). These policies not only safeguard the area for employment use but supports further proposals for renewal and intensification.

Policy CP34 states: Proposals for employment development (use classes B1, B2 or B8) will be supported within the Principal Settlements, Market Towns and Local Service Centres, in addition to the employment land allocated in the Core Strategy. These opportunities will need to be in the right location and support the strategy, role and function of the town.

The policy states, amongst other things, that development will be supported outside the principal settlements, providing it meets one of i-iv and where the development conforms with v-ix. The development proposed is considered to be consistent with these criteria.

Land at the Garden Centre and land adjacent to the Persimmon Head Office is allocated for employment uses. The extent of these allocations and designations are shown on the relevant policy map insert. The development site extends beyond the existing settlement framework boundary indicating that the proposal might conflict with objectives preventing encroachment and protecting the countryside. However, policies set out in the Local Plan and CS provide for exceptions to respond to local circumstances as set out in the policy context above.

Furthermore paragraph 21 of the NPPF states that investment in business should not be over-burdened by the combined requirements of planning policy expectations. Planning policies should recognise and seek to address potential barriers to investment, including a poor environment or any lack of infrastructure. The NPPF goes on to say that local planning authorities should set out a clear economic vision and strategy for their area which positively and proactively encourages sustainable economic growth and support existing business sectors, taking account of whether they are expanding or contracting. It is considered that the Core Strategy and Local Plan are consistent with this section of the NPPF.

It is considered that the proposed development is in accordance with both local and national planning policies and the proposed development can be supported.

Helicopter Pad

The use of the helicopter pad is for purposes ancillary to the use of the existing Dyson HQ and expansion of it. The construction of the helipad is acceptable in principle and is sufficient distance from existing residential and commercial properties to ensure that there will be no significant impact on the amenities of these properties. To ensure that it does not become a commercial helicopter terminal a condition will be required to control its use.

Impact on the Privacy and Amenity of Existing Neighbours

Concern has been raised in relation to the privacy and amenity of existing local residents. Particular concern has been raised in relation to the indicative height and locations of the proposed buildings in relation to adjacent residential dwellings.

The indicative layout demonstrate that adequate privacy will be maintained to the nearest residential properties, indeed, the proposed buildings will be further away from the nearest residential dwelling than the existing structures and office buildings within the site. It is considered that the outlook will not be significantly worse than the existing situation and there would certainly not be sufficient justification to refuse the application.

High Pressure Gas Pipeline

A high pressure gas pipeline runs through a section of North Western part of the site. The originally submitted plans for this part of the site located a building within three meters of this pipeline and its buffer zone. Such works would require the consent of the owner and in this instance it is unlikely that consent would have been granted and therefore permission could not have been granted by the Council.

Amended plans have subsequently been submitted to the Council demonstrating that the level of development proposed can be located within the site without being located within the buffer zones. The applicant has also demonstrated that the alternative locations would assimilate well within the landscape and relate well to existing development within the immediate area.

Ecology

BAP Habitat

The development site is comprised of neutral meadows, hedgerows, woodland, scrub, and ponds surrounding the existing buildings on site. The submitted Ecological Survey includes the results of habitats and protected species surveys and concludes that the main ecological issues are potential impacts upon reptiles and great crested newt.

The development would result in the loss of grassland which the extended phase 1 survey indicates may qualify as 'Lowland Meadow' priority / BAP habitat type, however there is insufficient detail to confirm the quality and extent of such habitat types within the sward and further detailed botanical work would be required to determine the impact upon this habitat. Nonetheless, on the basis of the available information, the quality and character of the grassland appears somewhat variable and any Lowland Meadow habitats which may be present are unlikely to extend across the entire site.

While the loss of priority habitat is a material planning consideration, and despite a degree of uncertainty over the extent and quality of such habitats on the site, the overall impact is likely to be limited and should be viewed in the context of the outline nature of this application and the habitat creation which will be secured in the long-term through the substantial landscape proposals. On balance it should be feasible to compensate for losses of any Lowland Meadow habitat types through onsite habitat creation.

Reptiles

Ponds within the existing Dyson site and on the periphery of the application site support a population of breeding great crested newt, while the application site comprises suitable terrestrial habitat for this species. It is therefore likely that impacts upon this population would include loss of terrestrial habitats, isolation of existing breeding ponds, and direct mortality during the construction phase. The development will therefore require a derogation licence from Natural England in order to legally proceed. In such circumstances the LPA is

legally required to consider the three derogation tests to be applied by Natural England and be satisfied that the proposals would be licensable before issuing permission. On balance, on the basis of the available information it is considered that the proposals are likely to be licensable, and as such a permission can be granted. Additional details will be required by condition and submitted as part of the reserved matters application.

Badger

It is understood that impacts upon badgers are likely to be limited to temporary disturbance and could therefore either be avoided through sensitive construction methods or setts closed under license.

Highways

The application has been submitted with a significant volume of supporting material. The highways officer is satisfied with the level of detail proposed and has raised no objection, subject to the imposition of conditions. The comments and objections raised by local residents are noted but a reason for refusal based on highways matters could not be substantiated. Conditions will be required to ensure that the highways works are complete prior to the first occupation of any part of the development.

Landscaping

The site lies within The Landscape Character of the Countryside – North Wiltshire District Council (saved) Policy NE15;

- North Wiltshire Landscape Character Assessment – Character Area 05 - Minety & Malmesbury Rolling Lowland.
- Wiltshire Landscape Character Assessment – Character Area 11B – Minety Rolling Clay Lowland.

They elude to the conservation and protection of existing rural character and tranquillity of the countryside. They also support the protection and reinforcement of field boundaries whether they are dry stone walls next to settlements, or hedgerows with (Predominantly Oak & Ash) hedgerow trees. The character assessments also elude to screening harsh urban edges and reinforcing landscape enclosure where appropriate through new woodland block and edge planting to help minimise urban influence surrounding settlements into countryside.

The above is particularly relevant in this instance as the Cotswolds AONB is located a short distance to the west of the proposed development site. The Cotswolds Conservation Board has also prepared a Landscape Character Assessment and Management Plan.

The submitted Landscape Visual Impact Assessment assess the potential landscape and visual effects on representative viewpoints from the AONB, the Tetbury Road gateway entrance to the town, The White Lion Recreation Ground and representative Public Rights of Way etc. The selected viewpoints represent a well reasoned and representative selection of the landscape and visual receptors likely to view and experience the proposed development to varying degrees and at varying distances.

Any subsequent reserved matters application must be high quality and particular attention with regards to the following:

- Use of materials
- Avoid unnecessary light pollution from external areas and light spill from buildings
- Reduce the potential for new building roof and ridge lines from gaining any kind of prominence on the local Skyline.

- Retain as many existing trees as possible & provide advanced new structure planting wherever possible.
- Building and road frontage facing Tetbury Road should be high quality and reinforce the first impression and gateway to the town.
- Strong planted perimeter boundaries and sub division of parking areas.

It is considered that the scope and content of this assessment is balanced, proportionate and representative and therefore satisfactory in my view and allows the Council to make an informed decision on potential Landscape and visual change effects to be expected resulting from the proposed development. The landscape officer raises no 'in principle' landscape reasons which would culminate in a reason for refusal.

The proposed development will be visible from various viewpoints, but will over time become increasingly filtered and screened by the combination of proposed ground works remodelling and structure planting. However, there are concerns relating to the landscaping proposed for the indoor sports facility and additional details will be required for this part of the scheme.

Neighbourhood Plan

On Monday 20 January 2014 a public consultation exercise commenced for the Malmesbury Neighbourhood Plan. This consultation closed at 5pm on Wednesday 12 March 2014. Following this consultation the comments received will be passed to an independent examiner, to be appointed by the council, who will consider the representations and determine if the plan should be put to a community referendum.

The neighbourhood plan acknowledges that Dyson Limited is expanding and there will be a need to accommodate additional employment and inward investment of new businesses, especially those with links to existing business should be encouraged. Para 4.1.3. of this plan acknowledges the need to identify new sites for employment in addition to those set out in the Wiltshire Core Strategy. Indeed, the neighbourhood plan has identified 6 hectares near the existing Dyson to allow for expansion. The area of land identified in the Neighbourhood Plan is similar to the application site.

Having considered the content of the neighbourhood plan the development is not considered to be premature or prejudicial to the adoption of the plan.

Indoor Sports Centre

The principle of an indoor sports facility within the site is acceptable. However, the location of it and the landscaping proposed is unlikely to result in a building which adequately assimilates in to the landscape. It is acknowledged that the proposal is in outline form with siting and design to be agreed at a later date, however, the landscaping forms part of this proposal. It is considered that landscaping for the sports centre can be control by way of condition to ensure that the building, once built sits well within the existing landscape.

Drainage and Flooding

The site is located in flood zone 1. The geology of the site is in the transition area of Kellaways Clay Member which would probably not be suitable for surface water infiltration techniques to be used. To ensure that surface water flooding does not take place within the site or increase the risk of flooding on adjoining private/public land it is recommended that a drainage condition is attached to any permission. This will minimise the risk of flooding and should overcome concerns raised by local residents. To require a plan at this early stage would not be reasonable.

RECOMMENDATION

The application is recommended for **APPROVAL** subject to the following planning conditions:

- 1 Details of the appearance, layout, and scale of the development hereby permitted (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

Reason: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2 Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.

Reason: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004

- 3 The development hereby permitted shall begin no later than two years from the date of approval of the last of the reserved matters to be approved.

Reason: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 4 The development shall comply with the following requirements:

- i.the gross internal floor space of the indoor sports facility shall not exceed 1850 sq m.
- ii.the gross internal floor space of the building to be used for an energy centre shall not exceed 600 sq m.
- iii.the gross internal floor space of the buildings to be used for Research and development (B1(b)) shall not exceed 25800 sq ms.
- iv.the gross internal floor space of the buildings to be used for non Research and development (B1(a)) shall not exceed 10000 sq ms.
- v.the gross internal floor space of the buildings to be used for an ancillary cafe and reception shall not exceed 1700 sq ms.
- vi.The total number of parking spaces shall not exceed 1414

Reason: For the avoidance and in the interest of proper planning.

- 5 An Urban Design and Landscape Framework Plan for the development of the site hereby permitted shall be submitted to and agreed in writing by the local planning authority no later than the first submission for approval of any of the reserved matters.

- a.The location, orientation and heights of buildings;
- b.The format of pedestrian routes and vehicular routes within the site;
- c.Tree and hedgerow protection plan
- d.Landscaping details including planting plans, species and density of planting
- e.Hard and soft landscaping details

- f.Landscape phasing plan which shall include cut & fill ground modelling and advanced structure planting.
- g.Landscape Management Plan setting out the long-term ecological management of all semi-natural habitat types and the maintenance of the protected species populations.
- h.Materials to be used in the construction of the external surfaces of the structures of the buildings
- i.External lighting details including, type of light appliance, the height and position of fitting, illumination levels and light spillage

Development shall be carried out in accordance with the approved Urban Design and Landscape Framework Plan.

Reason: To ensure the satisfactory appearance of the development.

- 6 Before any application for approval of reserved matters is submitted a Phase 2 botanical survey and a reptile survey shall be submitted to and approved in writing by the local planning authority. The plan shall include recommendations for appropriate and proportionate mitigation compensation measures for losses of priority / BAP habitat and the protection of reptile populations. Development shall be carried out in accordance with these details.

Reason: To ensure that the development does not have an adverse impact on the ecology of the area.

- 7 The development authorised by this permission shall not begin until the local planning authority has approved in writing a full scheme of works for improvement to the Tetbury Hill/Tetbury road, Tetbury Road A429 and Whychurch junctions. The occupation of the development shall not begin until those works have been completed in accordance with the local planning authority's approval and have been certified in writing as complete by or on behalf of the local planning authority.

Reason: To ensure that adequate highway capacity is available to accommodate the additional traffic generation by the proposed development.

- 8 No development shall commence on site until details of the improvements to pedestrian crossing facilities on Tetbury Hill have been submitted to and approved in writing by the Local Planning Authority. Those improvements shall be completed in accordance with the approved details prior to the first occupation or use of any part of the development hereby permitted.

Reason: In the interests of highway safety.

- 9 No building on the development hereby approved shall be occupied until the appropriate parking spaces together with a vehicular access thereto has been provided in accordance with details submitted to and approved in writing by the Local Planning Authority. The said space shall not be used other than for the parking of vehicles associated with the use of the site or for the purpose of access.

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

10 Aircraft movements within the site shall take place only between 07:00 and 20:00, except in an emergency.

Reason: In the interest of the residential amenities of adjoining properties
11 The Helicopter pad hereby approved shall be only be used for purposes ancillary to the use of the site.

Reason: in the interest In the interest of the residential amenities of adjoining properties.

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

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



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<p>SLP 1 SITE LOCATION PLAN</p>	<p>LANDESIGN ASSOCIATES CHARTERED LANDSCAPE ARCHITECTS. THE OLD FORGE, LOWER SOUTH WRAXALL, BRADFORD-ON-AVON, WILTSHIRE. BA15 2RZ. TEL (01225) 866739.</p>
<p>LAND ADJACENT TO DYSON, MALMESBURY</p>	