

## AGENDA

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**Meeting:** Western Area Planning Committee  
**Place:** Council Chamber, Wiltshire Council Offices, Bradley Road,  
Trowbridge  
**Date:** Wednesday 12 May 2010  
**Time:** **6.00 pm**

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Please direct any enquiries on this Agenda to Marie Gondlach, of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 713597 or email [marie.gondlach@wiltshire.gov.uk](mailto:marie.gondlach@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](http://www.wiltshire.gov.uk)

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### Membership:

Cllr Ernie Clark  
Cllr Rod Eaton  
Cllr Peter Fuller  
Cllr Mark Griffiths  
Cllr Malcolm Hewson  
Cllr John Knight

Cllr Christopher Newbury  
Cllr Graham Payne  
Cllr Stephen Petty  
Cllr Jonathon Seed  
Cllr Roy While

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### Substitutes:

Cllr Rosemary Brown  
Cllr Trevor Carbin  
Cllr Andrew Davis  
Cllr Russell Hawker  
Cllr Tom James MBE

Cllr Francis Morland  
Cllr Jeff Osborn  
Cllr Fleur de Rhe-Philippe  
Cllr Pip Ridout

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# AGENDA

## Part I

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

1. **Apologies for Absence**

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

To approve the minutes of the last meeting held on 21<sup>st</sup> April 2010 (copy attached.)

3. **Declarations of Interest**

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

4. **Chairman's Announcements**

5. **Public Participation**

Members of the public who wish to speak either in favour or against an application 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. 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.

6. **Planning Applications** *(Pages 7 - 8)*

To consider and determine planning applications in the attached schedule.

6. **Mobile home, day room and retention of existing pair of sheds - Land at Capps Lane Bratton Wiltshire** *(Pages 9 - 16)*

6. **Agricultural workers dwelling and revised access - Land East Of Clivey Barn Farm Clivey Dilton Marsh Wiltshire** (Pages 17 - 24)

6. **Outdoor exercise equipment and bin (revised proposals) - Playing Field Church Lane North Bradley Wiltshire** (Pages 25 - 30)

7. **Urgent Items**

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

8. **Exclusion of the press and public**

To consider passing the following resolution:

To agree that in accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public from the meeting for the business specified in Item 9 because it is likely that if members of the public were present there would be disclosure to them of exempt information as defined in paragraph 5 of Part I of Schedule 12A to the Act and the public interest in withholding the information outweighs the public interest in disclosing the information to the public.

**Part II**

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

9. **Mowlems, Wynsome Street, Southwick, Wiltshire, BA14 9RA Planning Reference W/09/01750/FUL Residential development of 54 new build dwellings and conversion of existing building to 2 dwellings** (Pages 31 - 32)

To consider the attached confidential report

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## WESTERN AREA PLANNING COMMITTEE

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### DRAFT MINUTES OF THE WESTERN AREA PLANNING COMMITTEE MEETING HELD ON 21 APRIL 2010 AT COUNCIL CHAMBER, WILTSHIRE COUNCIL OFFICES, BRADLEY ROAD, TROWBRIDGE.

#### Present:

Cllr Ernie Clark, Cllr Peter Fuller (Chairman), Cllr Mark Griffiths, Cllr Malcolm Hewson, Cllr John Knight, Cllr Francis Morland (Reserve), Cllr Stephen Petty, Cllr Fleur de Rhe-Philippe (Reserve) and Cllr Roy While

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#### 113. Apologies for Absence

Apologies for absence were received from Councillors Rod Eaton (substituted by Councillor Fleur de Rhé-Philippe), Christopher Newbury (substituted by Councillor Francis Morland), Graham Payne and Jonathon Seed.

#### 114. Minutes of the Previous Meeting

The minutes of the meeting held on 10 March 2010 were confirmed as a correct record and signed by the Chairman subject to the following:

##### **110.1 W/09/00690FUL**

5. Mrs Sarah Cardy, Melksham Town Council, spoke in objection to the application.

##### **111. Planning Appeal Update Report**

Resolved:

To note the report

#### 115. Declarations of Interest

**W/10/00495/FUL** – Councillor Ernie Clark declared a personal interest as Chairman of Hilperton Parish Council although he had abstained from discussing or voting on the application when considered by Hilperton Parish

Council. Councillor Clark gave his assurance that he would consider the application on its own merit and with an open mind.

116. **Chairman's Announcements**

There were no Chairman's Announcements

117. **Public Participation**

The Chairman explained the rules of Public Participation.

118. **Planning Applications**

**118.1 W/10/00226/FUL - Single storey extension to front and side - 48 Church Lane North Bradley Wiltshire BA14 0TE**

Public Participation:

1. Mr Wayne Gapper, the applicant, spoke in support of the application
2. Mr Iain Winterbottom spoke in support of the application

**Resolved:**

**That planning permission be GRANTED contrary to officer recommendation**

**For the following reason:**

**The proposed development conforms to the Development Plan and there are no objections to it on planning grounds.**

**Subject to the following conditions:**

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

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

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

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

West Wiltshire District Plan 1st Alteration 2004 - Policy C31a.

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

REASON: In the interests of highway safety and to ensure that the development can be adequately drained.

West Wiltshire District Plan 1<sup>st</sup> Alteration 2004 – Policy U2

4 The gradient of the parking spaces shall not exceed 1 in 15. The parking spaces shall be properly consolidated and of a permeable surface (not loose stone or gravel).

REASON: In the interests of highway safety.

West Wiltshire District Plan 1<sup>st</sup> Alteration 2004 – Policy C31a

5 No development shall commence until details of the retention wall and parking area at the front of the dwelling has been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

REASON: In the interest of visual amenity and the character and appearance of the area

West Wiltshire District Plan 1<sup>st</sup> Alteration 2004 – Policy C31a

## **118.2 W/10/00495/FUL - Proposed new dwelling - Land Rear Of 28 St Marys Close Hilperton Wiltshire**

Public Participation:

1. Mr Richard Harlow, agent for the applicant, spoke in support of the application

During the discussion an amendment to the officers' recommendation was approved:

- For conditions 2, 3, 4, 5 and 6 to start with the wording “within one month from the date of this permission” instead of “no development shall commence on site until”
- To delete the following wording from condition 4 “(including surface water from the access/driveway)”,

Therefore it was

**Resolved:**

**That planning be PERMITTED**

**For the following reasons:**

**The proposed development conforms to the Development Plan and there are no objections to it on planning grounds.**

**Subject to the following conditions:**

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

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

2 Within one month from the date of this permission details and samples of the materials to be used for the external walls and roofs have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

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

West Wiltshire District Plan 1st Alteration 2004 - POLICY: C31a.

3 Within one month from the date of this permission details of internal ground floor levels, which shall ensure that the height of the dwelling hereby approved does not exceed that of neighboring dwellings, has been submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall be carried out in accordance with the approved details.

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

West Wiltshire District Plan 1st Alteration 2004 – POLICY: C31a.

4 Within one month from the date of this permission a scheme for the discharge of surface water from the site, incorporating sustainable drainage details, has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first occupied until surface water drainage has been constructed in accordance with the approved scheme.

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

West Wiltshire District Plan 1st Alteration 2004 - POLICY: U2



5 Within one month from the date of this permission details of the works for the disposal of sewerage have been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be first occupied until the approved sewerage details have been fully implemented in accordance with the approved plans.

REASON: To ensure that the proposal is provided with a satisfactory means of drainage.

West Wiltshire District Plan 1st Alteration 2004 - POLICY: U1a

6 Within one month from the date of this permission a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include

- \* indications of all existing trees and hedgerows on the land;
- \* details of any to be retained, together with measures for their protection in the course of development;
- \* all species, planting sizes and planting densities, spread of all trees and hedgerows within or overhanging the site, in relation to the proposed buildings, roads, and other works;
- \* finished levels and contours;
- \* means of enclosure;
- \* car park layouts;
- \* other vehicle and pedestrian access and circulation areas;
- \* hard surfacing materials;
- \* minor artefacts and structures (e.g. furniture, play equipment, refuse and other storage units, signs, lighting etc);
- \* proposed and existing functional services above and below ground (e.g. drainage, power, communications, cables, pipelines etc indicating lines, manholes, supports etc);
- \* retained historic landscape features and proposed restoration, where relevant.

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

West Wiltshire District Plan 1st Alteration 2004 - POLICY: C31a and C32

7 All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock.

Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

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

West Wiltshire District Plan 1st Alteration 2004 - POLICY: C31a and C32

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

REASON: In the interests of highway safety.

West Wiltshire District Plan 1st Alteration 2004 - POLICY: C31a

9 The dwelling shall not be occupied until a means of vehicular access to the public highway has been constructed in accordance with detailed plans which have been submitted to and agreed in writing by the Local Planning Authority. The access shall be maintained for use by vehicles thereafter.

REASON: In the interests of highway safety

West Wiltshire District Plan First Alteration 2004 Policy C31A

**Informative(s):**

1 The attention of the applicant/developer is drawn to the contents of the letter from Wessex Water dated 31 March 2010.

119. **Planning Appeals Update Report**

**Resolved:**

**To note the report**

120. **Urgent Items**

There were no urgent items.

(Duration of meeting: 6.00 - 6.40 pm)

The Officer who has produced these minutes is Marie Gondlach, of Democratic Services, direct line 01225 713597, e-mail [marie.gondlach@wiltshire.gov.uk](mailto:marie.gondlach@wiltshire.gov.uk)

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

## WESTERN AREA PLANNING COMMITTEE

**12 May 2010**

### Planning Applications for Determination

Item No.	Application No.	Location	Parish	Page No.
01	W/09/02622/FUL	Mobile home, day room and retention of existing pair of sheds - Land At Capps Lane Bratton Wiltshire	Bratton	9
02	W/09/00941/FUL	Agricultural workers dwelling and revised access - Land East Of Clivey Barn Farm Clivey Dilton Marsh Wiltshire	Dilton Marsh	17
03	W/10/00836/FUL	Outdoor exercise equipment and bin (revised proposals) - Playing Field Church Lane North Bradley Wiltshire	North Bradley	25

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## REPORT TO THE WESTERN AREA PLANNING COMMITTEE

<b>Date of Meeting</b>	12.05.2010		
<b>Application Number</b>	W/09/02622/FUL		
<b>Site Address</b>	Land At Capps Lane Bratton Wiltshire		
<b>Proposal</b>	Mobile home, day room and retention of existing pair of sheds		
<b>Applicant</b>	Mr Freddy Hughes		
<b>Town/Parish Council</b>	Bratton		
<b>Electoral Division</b>	Ethandune	<b>Unitary Member:</b>	Julie Swabey
<b>Grid Ref</b>	389997 153518		
<b>Type of application</b>	Full Plan		
<b>Case Officer</b>	Mr James Taylor	01225 770344 Ext 169 james.taylor@wiltshire.gov.uk	

### Reason for the application being considered by Committee

This application is brought back to Committee following the receipt of further requested information. As part of this the application has been amended by the applicants.

The application was initially deferred by members at the 28 October 2009 meeting for further information and clarification.

Subsequently the application was deferred from 27 January 2010 at the request of the applicants and their agent because the agent was unable to attend and wished to make verbal representations.

Most recently the application was deferred by members at the 10 March 2010 meeting for further information and clarification.

Councillor Julie Swabey requested that this item be determined by Committee due to:

\* "I understand that there is enforcement action ongoing with this and the land has been used as a site, unauthorised for several years."

\* "complete lack of clarity on the number of sites we should allow in the West Wiltshire area".

### 1. Purpose of Report

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

Further to address the concerns of members at the meeting of 10 March 2010 namely:

1. restriction of further expansion
2. keeping of horses for commercial purposes
3. clarify what goes and what stays
4. personal condition
5. time clause
6. external lighting

7. sort out the proposed use of buildings
8. consult with IDeA
9. establish use to be made of buildings

In order to try and address the concerns of members, a meeting between the Area Development Manager, the Case Officer and the planning agent has taken place to discuss the above points. Following these discussions revised plans and additional information have been submitted. IDeA in conjunction with Wiltshire Council's spatial planning team has run an event at County Hall to discuss Gypsy and Traveller planning matters; this was open to and attended by a number of members.

The above points are now addressed in the officer's appraisal at Planning Considerations.

## **2. Main Issues**

The main issues to consider are:

- \* Impact on the rural character of the area
- \* Impact on highway safety
- \* Impact on amenity, including that of neighbours
- \* Proximity to local services and facilities
- \* The needs and safety of future occupants and their children
- \* Requested information from, and concerns of members

## **3. Site Description**

The application site is located in open countryside which is subject to no special landscape designations. It is sited on the C-classified Capps Lane which runs between Heywood and the settlements of Bratton and Edington.

The site has natural hedges to the north and east boundaries. To the south the boundary is a post and wire fence. To the west it is a mix of hedge and post and wire fencing.

Part of the site is still open to grazing, but the northern part is occupied by 2 barns and a caravan; the site has been subject to enforcement action by the Council regarding this and its uses.

Access to the site is existing, denoted by solid timber gates set back nominally from the highway. A rough access track is laid into the site beyond.

## **4. Relevant Planning History**

None

## **5. Proposal**

This is a planning application for a single private gypsy pitch to include the siting of a mobile home and touring caravan and the erection of a day room.

The day room would have a footprint of 5 metres by 6 metres; a height to eaves of 2.35 metres and a height to the ridge of 4 metres.

The proposal also proposes the retention of two existing barns at the site for use in connection with horses; the applicant is a traditional horse dealer.

Further the proposal includes revising the existing access to the site, hard and soft landscaping and parking and turning provision.

## 6. Planning Policy

West Wiltshire District Plan 1st Alteration (2004)

C1 Countryside Protection

C31a Design

C38 Nuisance

CF12 Gypsy Caravan Sites

Wiltshire Structure Plan 2016

DP1 Priorities for Sustainable Development

DP15 Accommodation for Gypsies and Travellers

National guidance

PPS1: Delivering Sustainable Development

PPS7: Sustainable Development in Rural Areas

ODPM Circular 01/2006: Planning for Gypsy and Traveller Caravan Sites.

DETR Circular 03/1999: Planning requirement in respect of the use of non-mains sewerage incorporating septic tanks in new development.

## 7. Consultations

### Bratton Parish Council

Objection:

“The council opposed the application on the following grounds:

1. The application is for a site outside the village policy limits contrary to policies H1 and H17 of the West Wiltshire District Plan 1st alteration (2004).
2. The proposal located in open countryside outside the defined village policy limits of Bratton would be tantamount to a new dwelling in the countryside without justification in the essential needs of agriculture or forestry contrary to Policy H19 of the West Wiltshire District Plan 1 Alteration (2004)
3. The proposal by reason of the proliferation of gypsy and traveller sites in the area would have a cumulative impact which fails to respect the scale of the village of Bratton contrary to paragraph 54 of ODPM Circular 01/2006.
4. The potential to accommodate further families.
5. It would appear that this application has been engineered to obstruct the declared wishes of Wiltshire Council (i.e. the enforcement notice of 13.07.09) who have stated that the land should be cleared.”

### Highway Authority

No Objection: Subject to conditions:

The development hereby permitted shall not be occupied until the access has been consolidated and surfaced (not loose stone or gravel). The access shall be maintained as such thereafter. REASON: In the interests of highway safety.”

### Wessex Water

No Objection.

## 8. Publicity

The application was advertised by site notice and neighbour notification.

Expiry date: 7 October 2009.

2 letters of objection from 1 party have been received. Summary of points raised:

- \* The land has been subject to planning enforcement, which has yet to be complied with.
- \* If approved the land may be handed back to the original owner to proceed as they intended prior to Council enforcement action.
- \* Blot on the landscape (confirmed by planning inspector)
- \* Erode the isolated and unspoilt countryside location.
- \* Noise from generators and barking dogs is disturbing amenity (tested by an inspector).
- \* Increase in traffic cannot be coped with on this lane.
- \* No footpath or lighting on this lane which is used by local riding school
- \* In the enforcement appeal it was stated by the Council that the land should not be residential.
- \* No bus service
- \* This proposal is a means of side stepping planning law.
- \* The siting of the caravan and the new day room would spoil views from lounge and bedroom windows.

## **9. Planning Considerations**

### **9.1 Restriction of further expansion.**

The proposals for this site are quite specific and if the development is granted planning permission then there would be no permitted development rights to extend the site. The maxim of each case being assessed on its own merits applies and this would not set any precedent. Any future application that may or may not be submitted would have to be assessed on its own merits. However in order to try and address the members concern the applicant has revised the plans to create a tighter form of development which extends much less into the field than originally proposed.

### **9.2 Keeping horses for commercial purposes**

Equestrian development is a perfectly compatible land use within rural areas and the Council's policy E10 makes this clear. It is not considered that the scale of horse activity connected to this site would be great and it would be naturally limited by the amount of stabling and storage facility for hay, tack, etc which is being proposed. Any expansion of this activity would be within the Council's control as further buildings for example would require planning permission. If these were ever being applied for then they too would be assessed on their merits. The appellants state that the trading of horses has been a part of the Romani Gypsy culture for 100s of years. Generally the horses on the site will be for personal enjoyment although as part of their culture sometimes trading of horses at fairs does occur. The keeping of horses at the site on the scale appropriate to the land is not a planning concern.

### **9.3 Clarify what goes and what stays**

The two barns currently on the site would remain. The caravan currently on the site would be relocated within the site as detailed on the plans.

### **9.4 Personal condition**

Officers must advise that the use of a personal condition would not be appropriate in this case under the government guidance on conditions in circular 11/95. It is reasonable, given the special justification being presented to impose a condition so that the site may only be occupied by a bona fida gypsy or traveller as defined in ODPM circular 01/2006. This is because the special justification relates not just to the applicant but anyone that could meet this government definition. This has always been your Officers' suggestion and their professional advice remains that such a condition is inappropriate. However the applicants have stated that they would reluctantly agree to a personal permission, even though they consider it would be contrary to policy, if members are so minded. It is stressed however that your Officers would not recommend such a condition.

### **9.5 Time clause**

In this case it is not considered to be justified to impose a temporary permission through conditions. The proposals would involve expensive works to the site entrance, drainage and sewerage, landscaping and other maintenance efforts. The cost of such works is likely to be prohibitive if the applicants face the threat of being removed from the site at the end of the temporary permission. As previously explained to members there is a need for further gypsy and traveller sites and the LDF work on site allocation remains on-going. In light of that need and no allocated site provision then this application has to be assessed on its own merits. As detailed before the site is deemed to be suitable



for a gypsy or traveller pitch and accords with the relevant policy. Therefore to place a time clause would not be reasonable.

#### 9.6 External lighting

The proposed plans do not detail any external lighting to the site. However officers have previously suggested a condition on this point and therefore retain the Council's control. Light pollution, especially in rural areas is a significant issue and therefore only very discrete and sympathetic lighting should be approved. Large scale street lighting for example would be inappropriate and would not be approved under condition.

#### 9.7 Sort out the proposed use of buildings

The two barns which would remain on the site would be used for tack, hay, feed and shelter for the horses in the winter. The touring caravan would be used when on the applicants are out on the road, otherwise it is merely being stored at the site. The mobile home would be used for living accommodation. The day room would be used for cooking and cleaning activities. Such activities would have traditionally been carried on outdoors by Romani Gypsy and are therefore kept separate from the living accommodation. This tradition remains, however it has now evolved to be carried on in a separate day room. The use of a mobile home for living and a day room for cooking and cleaning is a feature of Council operated sites also.

#### 9.8 Consult with IDeA

Since the deferral of the application there was an event on 23 March 2010 organised by Wiltshire Council's spatial planning team to help educate members on the Council's LDF work with gypsies and travellers and the need for further sites. It is understood that a number of members were present at this event. It is not possible to consult with IDeA about specific planning applications, rather it is a government agency intended to support and develop good practice in local government.

#### 9.9 Establish use to be made of buildings

This matter has already been covered above.

9.10 In summary your officers consider that the proposed development is in accordance with the relevant policy requirements including ODPM circular 01/2006. There is a demonstrable need for further gypsy and traveller pitches within the area, this and the on-going nature of the LDF work have been detailed in full on previous committee reports for this application. The applicant appears to meet the government's definition of a gypsy. Members have been informed previously about the status of enforcement action and a decision is needed on this case to inform what further action may be necessary.

9.11 In conclusion the members are advised that the additional information that has been sought at their request does not make any difference to the Officers' original comments and recommendation at the committee meeting on 28 October 2009 and 10 March 2010. Your Officers still recommend planning permission be granted subject to conditions.

**Recommendation:            Permission**

**For the following reason(s):**

**The proposed development conforms to the Development Plan and there are no objections to it on planning grounds.**

**Subject to the following condition(s):**

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

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

- 2 The site shall not be permanently occupied by persons other than gypsies and travellers as defined in paragraph 15 of ODPM Circular 01/2006.

REASON: Planning permission has only been granted on the basis of a demonstrated unmet need for accommodation for gypsies and travellers and it is therefore necessary to keep the site available to meet that need.

West Wiltshire District Plan 1st Alteration 2004 - POLICY: CF12

- 3 No more than 2 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, of which no more than 1 shall be a static caravan or mobile home, shall be stationed on the site at any time.

REASON: In the interests of the visual amenity of the area.

West Wiltshire District Plan 1st Alteration (2004) POLICY CF12.

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

REASON: In the interests of highway safety.

West Wiltshire District Plan 1st Alteration 2004 - POLICY: C31a

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

REASON: In the interests of highway safety.

West Wiltshire District Plan 1st Alteration 2004 - POLICY: C31a

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

REASON: In the interests of highway safety.

West Wiltshire District Plan 1st Alteration 2004 - POLICY: C31a

- 7 No development shall commence and no caravans brought onto site until details, including a timetable for implementation, have been submitted to and approved in writing by the Local Planning Authority for the following:

- i) the materials to be used in the construction of the external surfaces of the day room, hardstandings, access drives, parking and amenity areas;
- ii) the landscaping of the site (a scheme showing the species, plant sizes, numbers and densities) including details of any supplementary planting to reinforce the existing hedgerows;
- iii) any new boundary treatment, fencing or gates
- iv) refuse storage facilities
- v) electricity generation
- vi) lighting
- vii) details of septic tank

REASON: In the interests of amenity of the area and neighbours.

West Wiltshire District Plan 1st Alteration (2004) POLICY CF12.

- 8 All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the site. All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority.

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

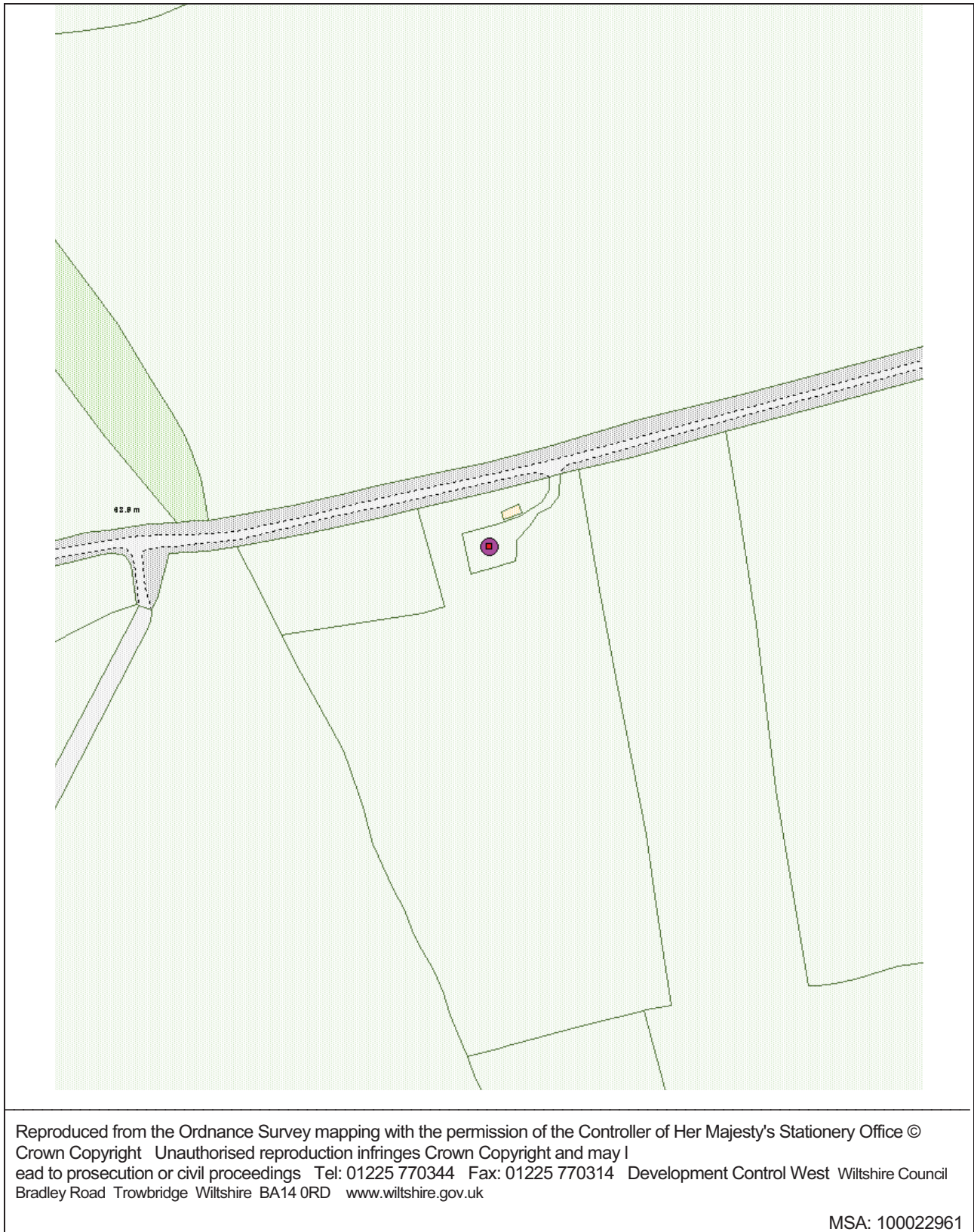
West Wiltshire District Plan 1st Alteration 2004 – POLICY CF12.

- 9 There shall be no burning of waste on the site.

REASON: In the interests of amenity and environmental protection.

West Wiltshire District Plan 1st Alteration (2004) POLICY CF12.

<b>Appendices:</b>	
<b>Background Documents Used in the Preparation of this Report:</b>	



## RELEVANT APPLICATION PLANS

- Drawing : SITE PLAN received on 08.09.2009
- Drawing : 0946/01 received on 08.09.2009
- Drawing : 0946/02 received on 08.09.2009
- Drawing : DAY ROOM received on 08.09.2009

## REPORT TO THE WESTERN AREA PLANNING COMMITTEE

<b>Date of Meeting</b>	12.05.2010		
<b>Application Number</b>	W/09/00941/FUL		
<b>Site Address</b>	Land East Of Clivey Barn Farm Clivey Dilton Marsh Wiltshire		
<b>Proposal</b>	Agricultural workers dwelling and revised access		
<b>Applicant</b>	Mr Frank Brine		
<b>Town/Parish Council</b>	Dilton Marsh		
<b>Electoral Division</b>	Dilton	<b>Unitary Member:</b>	Julie Swabey
<b>Grid Ref</b>	384073 149992		
<b>Type of application</b>	Full Plan		
<b>Case Officer</b>	Mr James Taylor	01225 770344 Ext 169 james.taylor@wiltshire.gov.uk	

### Reason for the application being considered by Committee

This application is being brought to Committee following the receipt of further requested information. This has been obtained following the members requests and deferral of a decision at the 24 June 2009 meeting.

This item was originally brought to Committee at the request of Councillor Newbury, acting on behalf of Dilton Marsh Parish Council because "This planning application is contrary to the development plan".

### 1. Purpose of Report

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

Further to address the concerns of members at the meeting of 24 June 2009 when they requested that a second independent agricultural advisor's report be commissioned by the Council. This information has now been received and the matter is addressed in the officers' appraisal at Planning Considerations.

### 2. Summary of Main Issues

The main issues to consider are:

- \* The principle of development.
- \* Functional and financial tests of Planning Policy Statement 7: Sustainable Development in Rural Areas: Annex A.
- \* Design Issues.
- \* Landscape and rural character matters.
- \* Highway safety.
- \* Amenity interests, including proximity to existing sewerage treatment works.



### **3. Site Description**

The application site is located on a relatively flat area of a small agricultural field which fronts onto the B3099 north west of Dilton Marsh in open countryside. The site has an existing agricultural access directly onto the B3099.

The surrounding area is characterised by its agricultural land use and is typically rural in character.

To the north east of the application site is a sewerage treatment facility. To the north and north west is a separate agricultural farmhouse and associated farm buildings. To the west are agricultural buildings under the applicants control and to the south is open countryside.

The site is not subject to any further constraints although it is noted that a public right of way runs adjacent to the west boundary of the site.

### **4. Planning History**

No relevant history on this site, although relevant history in immediate vicinity as follows:

Relevant history on land east of 19 Clivey (piggeries):

81/01141/HIS - Extension to existing pig farm – Refusal on 19.01.1982

86/00130/FUL - Mobile home – Refusal on 29.04.1986

88/00785/FUL - Permission for continued use of residential mobile home on the site – Refusal on 19.07.1988

88/02100/OUT - Erection of detached house and garage – Refusal on 20.12.1988 (Appeal dismissed on 05.05.1989)

92/01245/FUL - Pig runs outside buildings – Refusal on 16.02.1993 (Appeal allowed on 26.11.1993)

93/00269/FUL - One 4,000 gallon underground slurry tank and one 2,000 gallon underground septic tank to serve existing piggery – Permission - 27.07.1993

99/00750/FUL - New four bedroom dwelling – Refusal on 05.08.1999

00/01674/FUL - Hay barn and cattle shed – Permission on 15.11.2000

Relevant history on land east of Clivey Barn Farm:

05/02911/FUL - Agricultural worker's dwelling – Withdrawn

Relevant history on land adjacent Sewage Works:

96/00913/FUL - Erection of 4 bedroom farmhouse with garage – Permission on 22.08.1996

### **5. The Proposal**

The proposal is for the erection of a detached 4-bedroom agricultural workers dwelling with attached double garage. The proposal is for a 1½ storey property approximately 11.5 metres by 7.5 metres plus garage with a floor area of 6 metres by 6.5 metres. The external materials proposed are buff coloured reconstructed stone to the walls and concrete double roman tiles to the roof. The dwelling would be set back from the frontage with the B3099 by approximately 28 metres.

The proposal includes an intensification of the existing vehicular access to allow agricultural and residential use over a formalised tarmac envelope, 10 metres in length. The proposals also include some boundary landscaping with native species.

In support of the application a design and access statement has been submitted and an agricultural justification has been prepared by Killens dated March 2009. Further a letter from the occupiers of Clivey Barn Farm has been submitted stating that the sewerage treatment facility to date has not caused any odour nuisance.

Since this was last presented to planning committee the applicant has also submitted financial accounts from Marsh Accountancy in Warminster. Firstly figures titled 30 September 2008 were submitted in December 2009 and then draft accounts to year end 30 September 2009 were submitted 9 April 2010.

## **6. Planning Policy**

West Wiltshire District Plan 1st Alteration (2004)

C1 Countryside Protection

C31a Design

C38 Nuisance

H19 Dwellings in Open Countryside

U5 Sewerage Treatment Works

Leisure and Recreation Development Plan Document

CR1 Footpaths and Rights of Way

National guidance

PPS1: Delivering Sustainable Development

PPS7: Sustainable Development in Rural Areas

## **7. Consultations**

### Dilton Marsh Parish Council

The Council requests that advice is sought from the Agricultural Advisor to determine whether the proposed development is satisfactory.

### Highway Authority

The site is located outside of the planning policy area for Dilton Marsh and therefore new housing is normally resisted due to the site location being deemed unsustainable. The proposed dwelling this application relates to has been specified to be for the use of an agricultural worker and their family. Providing the occupation of the dwelling is limited to that of an agricultural worker, as specified in the application documents and supporting information, I would not wish to object on the grounds of sustainability.

In view of the above no highway objection is raised subject to conditions.

### Wessex Water

No objection.

### First Agricultural Advisor/Consultant

01.05.2009

“FUNCTIONAL NEED:

Existing - The application is for a permanent dwelling. It is noted that Annex A to PPS7, paragraph 3 (i) requires that there is a “clearly established existing functional need” as part of the criteria to warrant a permanent dwelling.

There may be a functional requirement to assist with farrowing the very small quantity of sows; however, the very small number (five animals) and the limited period of farrowing does not, in my opinion result in the functional test being met. On the applicant’s own case it is the expanded level of the livestock enterprises that will generate the functional need. That argument does not fit with the guidance set out in Annex A in respect of permanent dwellings.

#### FINANCIAL TEST:

Existing - The application is for a permanent dwelling. The financial criteria required under Annex A of PPS7 are as follows: "the unit and the agricultural activity have been established for at least three years, have been profitable for at least one of them, are currently financially sound and have a clear prospect of remaining so".

The applicant has not provided accounts for the recent trading periods. The financial information that has been provided relates to the anticipated implementation of the proposed enterprises. Aside from the arable enterprise the financial information does not relate to any of the existing farming activities at their existing level of operation. The information provided does not enable me to assess whether the financial test has been met.

CONCLUSION AND OPINION - Neither the functional nor the financial tests are met. The proposed dwelling is not warranted under Annex A of PPS7."

#### Second Agricultural Advisor/Consultant

08.04.2010

#### "FUNCTIONAL NEED:

Mr Killen has argued that there is a functional need for a dwelling on animal welfare grounds. This argument is based on anticipated future stocking levels, rather than existing levels of activity.

Currently only a small number of young cattle (17 at the time of my visit) and finishing pigs are kept at the farm buildings by the proposed dwelling site. This type and number of stock are often kept at some distance from the nearest agricultural workers dwelling without undue harm. The sows and other cattle were on land to the south-east of Dilton Marsh, approximately 1 km distant from the buildings.

Given the small number of stock kept at the buildings, and that the care of sows around farrowing is one of the main welfare demands of good husbandry for this holding, I do not consider that there is a compelling functional need for the proposed dwelling.

#### FINANCIAL TEST:

The holding has been operational for a number of years and accounts have been made available for the last three years.

Mr Killen has argued that the financial test is met, based on estimated profitability of an expanded farming operation following the erection of the agricultural dwelling. His estimate omits the cost of purchasing 100 calves per year, which would reduce the profit by approximately £15,000. This would leave the overall profitability of the holding marginal. However, the financial test needs to be based on existing financial performance. As can be clearly seen, the level of income achieved in the last three years is a lot less than that estimated by Mr Killen. The holding has made a very small profit in 2009 and losses in the preceding years. The accounts include no payment for labour, so after deduction of a reasonable charge for unpaid labour there would be a net loss for all three years.

#### EXISTING ACCOMODATION IN THE AREA:

The farm buildings are situated approximately 0.5 km to the west of Dilton Marsh. The village of Dilton Marsh contains a wide range of housing, much of it suitable for an agricultural worker's dwelling. Given that only limited stock are kept at the farm buildings and the breeding sows are kept on land to the south-east of the village, a dwelling within the village would just as suitable to the needs of the business as one sited at the farm buildings.

#### CONCLUSIONS:

It is my view that the application does not meet the criteria for an agricultural worker's dwelling laid down in Planning Policy Statement 7, Annex A.

- i. there is not an existing functional need for a dwelling at the proposed site due to the small number of stock actually kept at the farm buildings
- ii. the unit has not been economically profitable within the last three years and therefore cannot be viewed as financially sound



iii. accommodation suitable for occupation by a farm worker is available in the village of Dilton Marsh which is appropriate for meeting the husbandry needs of the business.”

#### Environmental Health

No objection.

### **8. Publicity**

The application was advertised by site notice and neighbour notification.

Expiry date: 29 April 2009.

Summary of points raised:

No comments received.

### **9. Planning Considerations**

9.1 This is an application for a new dwelling in open countryside outside of the village policy limits of Dilton Marsh. The relevant development plan policy H19 allows for new dwellings in such cases only if justified in connection with the essential needs of agriculture or forestry.

9.2 Such exemptions are also allowed for in national Planning Policy Statement 7: Sustainable Development in Rural Areas. This document sets out in detail at Annex A how such proposals can be justified only to support existing agricultural activities on well-established agricultural units. Therefore it is a fundamental concern that all of the supporting information submitted as part of this application is based on an intention to increase stock and expand the existing enterprise. As such although the agricultural unit is existing the need for an agricultural worker's dwelling is based on projections and intensifications and not existing activity.

9.3 In short the proposal for this permanent new dwelling is not to support existing agricultural activity and so fails to meet the special justification tests of PPS7 and is contrary to the relevant development plan policy H19.

9.4 For the sake of completeness it is necessary to consider the full tests laid out in PPS7. Prior to this however it is important to note that both of the Council's expert agricultural advisors raised objection to the proposals. Their comments are detailed in full above but they both reached the conclusion that the functional and financial tests of PPS7 had not been met and therefore an agricultural worker's dwelling was not justified. The second consultant reached his conclusion based on accounts information submitted for 2007, 2008 and 2009. The considerable delay in returning this matter to committee was in part due to officers giving the applicant every opportunity to provide this financial information.

9.5 To be justified the proposal needs to demonstrate that there is a clearly established existing functional need. This functional test has been addressed in the supporting report by Killens based on projects and intentions to expand the operations as detailed above. As such the functional test has not been applied to the existing activity on the unit and therefore the proposals fail to adequately address the functional test. It has to be considered that the intentions to expand the operation will be subject to a number of varying factors not least potential planning constraints. No detail is available to consider this however, nor any other variables which may mean that the expansion cannot take place. If this application were approved and the expansion does not then take place the agricultural workers dwelling will not be justified and so a new dwelling would be erected in open countryside without any functional agricultural need, a clear circumvention of planning policy. Both of the Council's agricultural advisors state that the proposal does not meet the functional need.

9.6 To be justified the proposals' functional need must relate to a full-time worker primarily employed in agriculture. Since the functional need has not been justified on the existing activity then the proposal fails to adequately demonstrate this point also.

9.7 To be justified the unit and agricultural activity concerned have to have been established for at least three years. Initially the proposals failed in this regard, again because all the financial test information is based on projections in the event of intensifying the operations at the unit. The second agricultural advisor had the benefit of accounts for 2007 and 2008 which showed a net loss from the existing activity. The draft 2009 accounts indicate a small profit, however in the Council's agricultural advisor's professional opinion the accounts include no payment for labour and after a reasonable deduction for this unpaid labour there would be a net loss again. In short the financial test has not been met based on existing activity and should not be assessed on aspirations and projections.

9.8 To be justified it must be demonstrated that the functional need cannot be fulfilled by another existing dwelling on the unit or other accommodation in the area. The Council has no information available to refute the applicant's claim that no other suitable and reasonably available dwellings exist to meet a need; however it is stressed that the functional need has not been adequately demonstrated anyway. Further the Council's second agricultural consultant was of the professional view that any need could be met equally well by a dwelling in the village and there is no need to live on the site.

9.9 In conclusion this application fails the functional and financial tests of PPS7 and has raised objection from both the Council's agricultural advisors. The second view was sought specifically at the request of members and this independent advisor was of the professional opinion that the dwelling was not justified under the function and financial tests of PPS7.

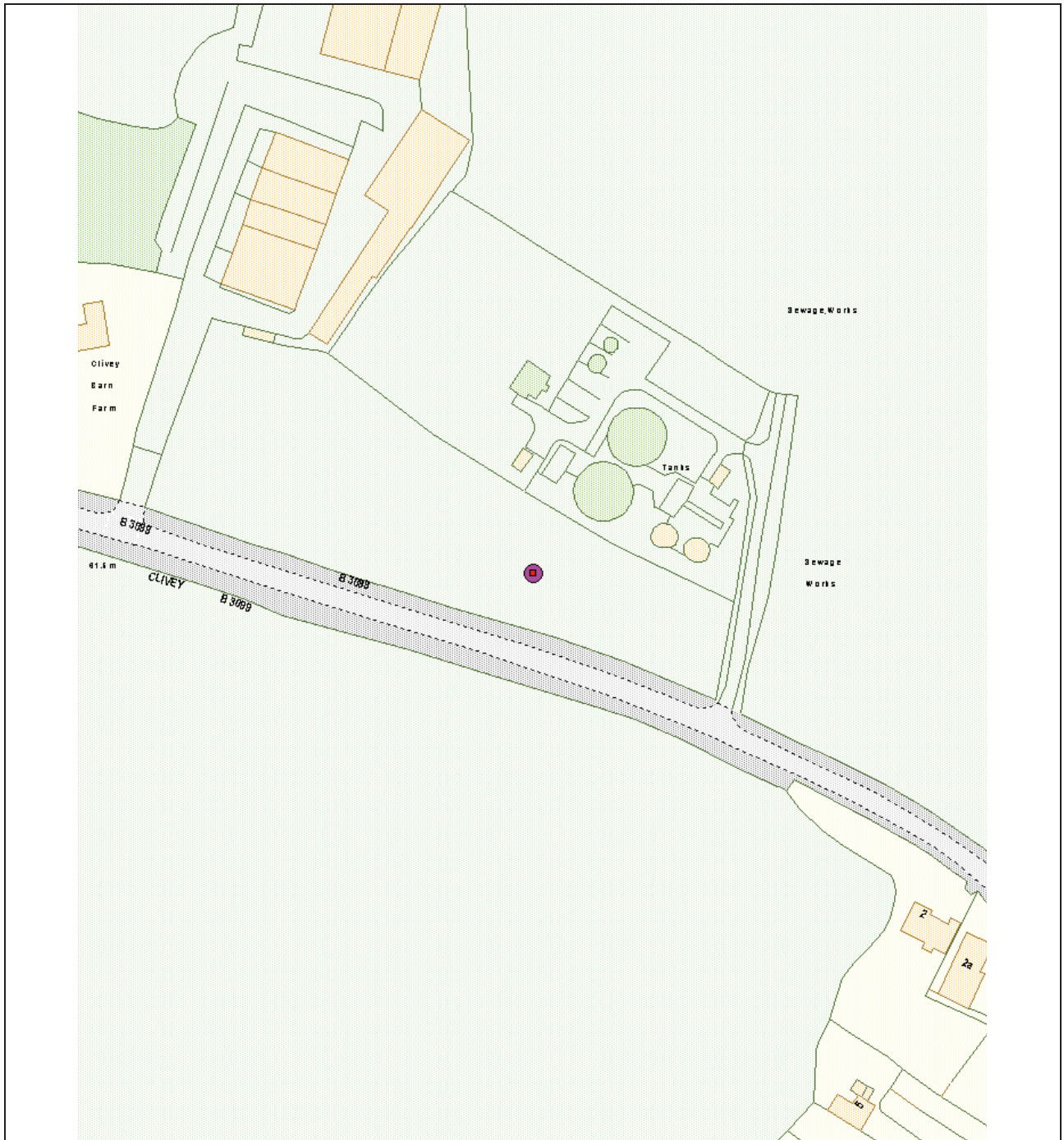
9.10 Therefore the application should be refused as it is a proposal for a permanent dwelling in open countryside without an adequate agricultural justification contrary to Policy H19 of the development plan and national guidance. There are no other planning reasons for refusal as detailed in the originally committee report of 24 June 2009.

**Recommendation: Refusal**

**For the following reason(s):**

- 1 The proposal for a permanent new agricultural workers dwelling sited in open countryside would be contrary to the West Wiltshire District Plan 1st Alteration (2004) Policy H19 by reason of the inadequate agricultural justification which fails to meet the functional and financial tests set out in Planning Policy Statement 7: Sustainable Development in Rural Areas, Annex A paragraphs 3-11.

<b>Appendices:</b>	
<b>Background Documents Used in the Preparation of this Report:</b>	



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## REPORT TO THE WESTERN AREA PLANNING COMMITTEE

<b>Date of Meeting</b>	12.05.2010		
<b>Application Number</b>	W/10/00836/FUL		
<b>Site Address</b>	Playing Field Church Lane North Bradley Wiltshire		
<b>Proposal</b>	Outdoor exercise equipment and bin (revised proposals)		
<b>Applicant</b>	Dr Brian Bond		
<b>Town/Parish Council</b>	North Bradley		
<b>Electoral Division</b>	Southwick	<b>Unitary Member:</b>	Francis Morland
<b>Grid Ref</b>	385638 155123		
<b>Type of application</b>	Full Plan		
<b>Case Officer</b>	Miss Carla Rose	01225 770344 Ext 283 carla.rose@wiltshire.gov.uk	

### Reason for the application being considered by Committee

Councillor Morland has requested that this item be determined by Committee to address whether the reason for refusal on the previous application (09/03288/FUL) has been addressed.

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#### 1. Purpose of Report

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

#### 2. Main Issues

The main issues to consider are:

Planning history  
Neighbour amenity  
Recreation

#### 3. Site Description

North Bradley Playing field is bounded by residential development on its north east, south east and south western boundary albeit North Bradley Hall. An area of children's play equipment is located to the south east of the site. Southwick Road is located to the north of the site and Church Lane is located to the south of the site

#### 4. Relevant Planning History

09/03288/FUL - Outdoor exercise equipment, bins and benches. Refused 30.12.09

## **5. Proposal**

Three pieces of exercise equipment are proposed to be located to the south east of the site. These would consist of a double air walker, an air skier and a pull-up and dip station.

These would be located to the rear of an existing garage block on the adjoining residential estate.

A new artificial turf path is proposed from the entrance to the playing field from Church Lane to the existing artificial turf path to the hall.

A letter from the applicant states that the path would be 120 metres long and will be a width of 1.2 metres.

In support of the application the applicant has submitted 15 letters of support from various local organisations and individuals.

## **6. Planning Policy**

West Wiltshire District Plan 2004 1st Alteration 2004

C31A – Design  
C38 - Nuisance

## **7. Consultations**

North Bradley Parish Council

Support

Environmental Health

There has been a reduction in equipment. No objection raised

## **8. Publicity**

The application was advertised by site notice and neighbour notification.

Expiry date: 7th of May 2010

Summary of points raised:

Letters of objection have been received from five local residents.

A petition with 12 signatures was received objecting to the proposals.

Their objections are as follows:-

- Reason for refusal has not been overcome.
- Location and principle of proposal is the same
- Proposed equipment bins and path is in close proximity to residential properties
- Inaccurate drawings
- Noise
- Nuisance
- Congregation
- Security and safety
- Hours of use
- Vandalism/anti-social behaviour
- Overdevelopment
- Privacy



- Smells
- Litter
- Loss of daylight
- Design/Appearance/Layout
- Loss of trees
- Stress
- Impact on sport
- Impact on quality of life
- Development plan policy

A petition containing 47 signatures was received in support of the proposals.

A letter of support has been received from the local Member of Parliament.

A letter from a local business in support of the application has also been received.

One further letter of support containing three signatures has also been received.

## **9. Planning Considerations**

### 9.1 Planning history

A previous application was refused for the following reason: -

‘The proposed outdoor exercise equipment is located in close proximity to residential neighbours and would have an adverse impact on the amenities currently enjoyed by the occupiers of these dwellings due to the likelihood of noise, nuisance and disturbance contrary to policy C38 of West Wiltshire District Plan 1st Alteration 2004.’

This reason for refusal has been overcome because less exercise equipment is now proposed. The above reason for refusal related to four pieces of outdoor exercise equipment. This current application is for three pieces of outdoor exercise equipment. The three pieces of equipment are the same as before. The seated leg press has been removed from the scheme.

As a result of the reduction in the number of pieces of outdoor exercise equipment there would be a reduction in amount of noise, nuisance and disturbance to the occupiers of nearby dwellings because less people will be able to use the equipment at one time.

The Environmental Health department have raised no objection because of the reduction in the number of items of equipment. The item of equipment that has been removed is that of a seated leg press. The removal of this piece of equipment would reduce the impact of noise, nuisance and disturbance. This is because people are less likely to congregate within the area because there is no seated equipment.

### 9.2 Neighbouring amenity

It is recognised that the exercise equipment is proposed to be in the same location as the previously refused application. However, the seated leg press has been removed from the scheme which for reasons discussed in section 9.1 means that people are less likely to congregate. Furthermore, the benches have been removed from the scheme and again, this will make this a less attractive area for people to congregate.

The reduction in the amount of equipment and the location of the equipment alongside the garages in conjunction with the removal of the benches from the scheme would mean there would be less impact on neighbouring amenity. This is because fewer people are likely to use this area of the recreation field because of a reduction in facilities. The equipment will be obscured from the adjoining residential properties because of the position of the garages that form a barrier between the playing field and the houses or are at sufficient distance to be unaffected.

### 9.3 Recreational Ground

Outdoor exercise equipment is not an uncommon feature within a recreational ground. Furthermore, the proposed exercise equipment would be of great health benefits to society. The loss of open recreation ground would be minimal because the exercise equipment and path is located on the outskirts of the playing field and is unlikely to interfere with sporting activities.

Concerns were raised about the impact that the proposals would have on the trees. The proposed exercise equipment is not located close to the canopy of any trees; therefore there would be no harm. The proposed path would not be harmful to the trees because the excavation required for the path would be minimal.

The bin would mean that litter is less likely to be on the recreational ground and therefore the addition of a bin to the recreational ground is considered an improvement to the area.

**Recommendation:           Permission**

**For the following reason(s):**

**The proposed development conforms to the Development Plan and there are no objections to it on planning grounds.**

**Subject to the following condition(s):**

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

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

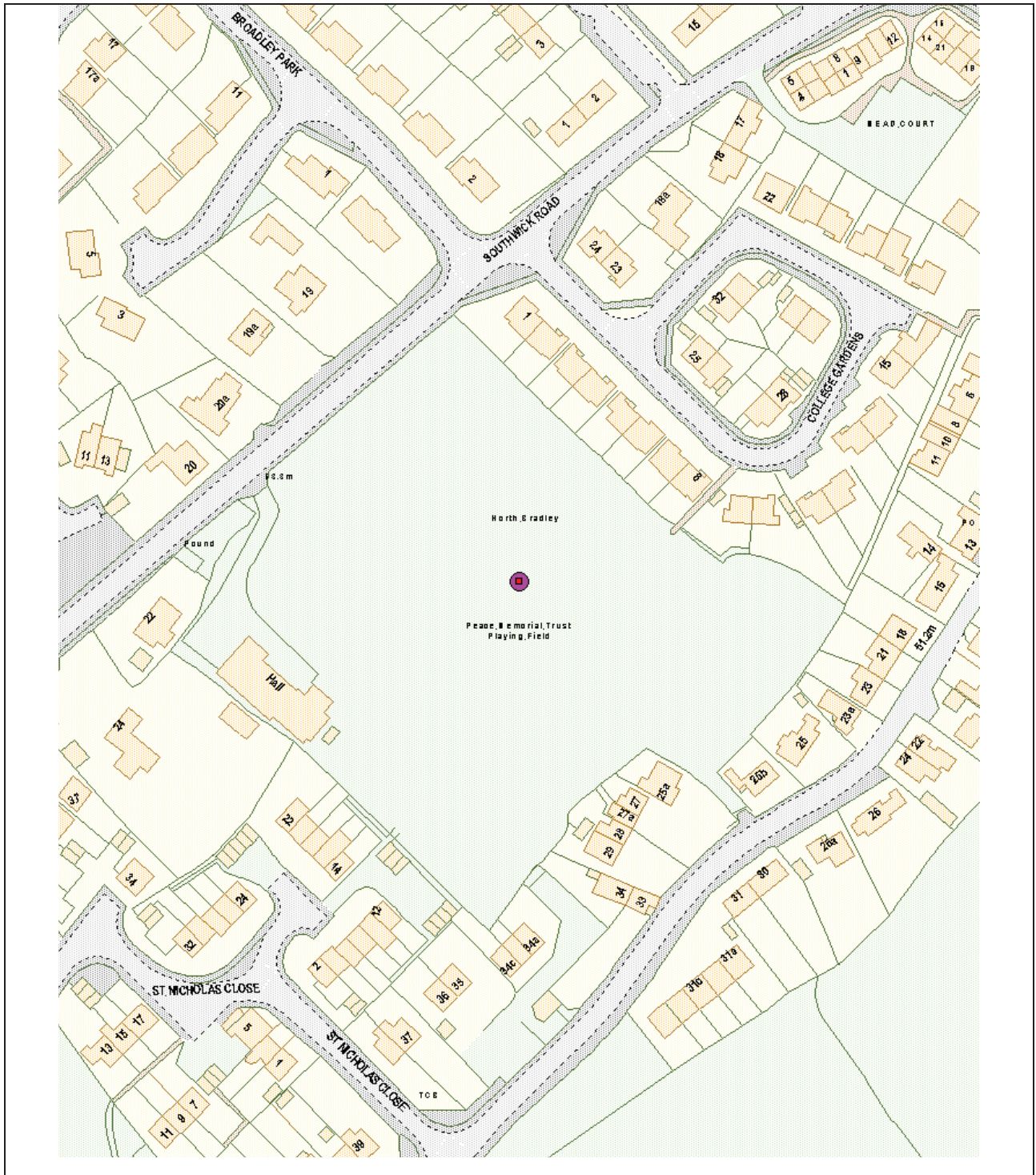
- 2     The litter bin shall be installed and made ready for use prior to the installation of the exercise equipment and shall be retained as such in perpetuity thereafter.

REASON: To ensure that provision is made to avoid nuisance from litter

POLICY: West Wiltshire District Plan 1st Alteration 2004 – Policy C38

<b>Appendices:</b>	
<b>Background Documents Used in the Preparation of this Report:</b>	





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## RELEVANT APPLICATION PLANS

- Drawing : SITE PLAN received on 16.03.2010
- Drawing : DESIGN AND ACCESS PLAN received on 22.04.2010
- Drawing : SITE PLAN/LOCATION OF EQUIPMENT received on 22.04.2010
- Drawing : AIR SKIER received on 16.03.2010
- Drawing : PULL UP AND DIP STATION received on 16.03.2010
- Drawing : DOUBLE AIR WALKER received on 16.03.2010

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