

REPORT TO THE WESTERN AREA PLANNING COMMITTEE

Date of Meeting	09.02.2011		
Application Number	W/10/03031/FUL		
Site Address	Land West Of Biss Farm West Ashton Road West Ashton Wiltshire		
Proposal	Application to renew planning permission W/05/00744/FUL to allow time to submit reserved matters pursuant to reference 98/01149/OUT		
Applicant	Persimmon Homes (Wessex) Ltd		
Town/Parish Council	West Ashton		
Electoral Division	Southwick	Unitary Member:	Francis Morland
Grid Ref	386962 157248		
Type of application	Full Plan		
Case Officer	Mr Kenny Green	01225 770344 Ext 5174 kenny.green@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.

The application was initially deferred by members at the 8 December 2010 meeting for further information and clarification regarding the necessary highway improvement works (to be conditioned) and the policy position.

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

* Environmental/highway impact

In order to try and address the concerns of members, a meeting was held between the the planning agents and planning and highway Council officials to address the above points. Following these discussions additional information has been submitted by the applicants agent. The additional information is contained within paragraph 9.1 below.

1. Purpose of Report

To consider the above application and to recommend that an extension of time for a previously approved outline development under reference 98/01149/OUT be granted.

Neighbourhood Responses

36 letters of objection received. (1 additional letter received since 8 December)

Parish/Town Council Response

Objects to the development proposal for the reasons stated within section 7.

2. Main Issues

The main issues to consider are:

The main issue to consider is whether or not there have been any material changes to circumstances that would indicate a need to re-visit the decision made in respect of application reference 05/00744/FUL.

3. Site Description

The land which is the subject of this application relates to 30 acres (12.1 hectares) of land at West Ashton Road, Trowbridge. The land is currently used for agricultural purposes but it is allocated in the adopted West Wiltshire District Plan as Site E1A - New Business Park. The site is roughly triangular in shape and is located on the eastern side of the public highway.

The adopted West Wiltshire District Plan identifies the site for future employment use following the former District Council's decision to grant outline permission in 1998. The Local Plan states that "the site is well related to the town, residential areas and the town centre, whilst not being so close as to cause environmental or amenity problems. The site has no adverse implications for the interests of nature conservation. In particular the ancient semi-natural woodland of Biss and Green lane Woods. The site offers an excellent opportunity to provide an attractive landscaped site, integrated with the proposed country park and adjacent residential areas, which could cater for a wide range of employment uses."

"There are opportunities for good access to the main county road network and additional new road links are safeguarded in the Plan to eventually provide in future years a northern link through Paxcroft Mead and the Hilperton Gap to the Staverton Diversion, Bath and the A46/M4".

4. Relevant Planning History

On 8 October 1998 outline planning permission was granted for the development of land to the west of Biss Farm, West Ashton Road for employment uses B1, B2 and B8. All matters were reserved for subsequent approval under application ref: 98/01149/OUT.

Following this, permission was granted for 01/01617/FUL on 6 February 2003 via an application made under Section 73 of the Town and Country Planning Act 1990 (as amended) for the continuation of the 1998 permission without compliance with the standard 3 year reserved matters period.

In approving 01/01617/FUL, the Council failed to specify the time limit conditions. Nevertheless, by virtue of Section 92/(3) of the Town & Country Planning Act 1990, the permission is deemed to have been granted subject to the standard 3 year period. Therefore, the 2003 permission granted on 6 February 2003 required that in the case of any reserved matter details needed to be submitted by 5 February 2006 (3 years after the 6 February 2003 permission).

In 2005, permission was granted on 7 June 2005 (under 05/00744/FUL) to vary Condition 1 and the deemed time limits covering phasing and the stated time period to submit reserved matters attached to 98/01149/OUT.

5. Proposal

As part of approving the 05/00744/FUL application, the former District Council agreed to specify that reserved matters needed to be submitted before the expiration of 6 years from the date of the permission i.e. before 6 June 2011.

At the time, the Council accepted the applicants request for an extended time period for compliance in recognising that the development of the application site for employment development was [and

remains] "fundamentally dependant" on residential development on land south of Paxcroft Mead (Policy H11) and the Hilperton Relief Road (Policy T5).

The applicants seek to obtain an extended time limit of 5 years, compared to the standard 3 years, for them to submit the necessary reserved matters to the Council.

Under this application, permission is sought to allow an extension of time for the submission of reserved matters following on from the Council's decision to grant outline permission (98/01149/OUT) - an application which has been renewed twice under references 01/01617/FUL and 05/00744/FUL (both of which were section 73 applications).

In recognition of Section 73 (5) of the Town and Country Planning Act and the related Explanatory Memorandum and the advice issued as "Greater flexibility for planning permissions: Guidance, 2009", an application seeking a renewal of permission subject to new time limits is identified in Article 10B(1) (b) as separate and alternative to one made under Section 73; it is also explicitly recognised as a valid form of application by the amendments made to Article 4E dealing with applications for planning permission.

It therefore follows that a permission granted under these provisions would be granted under section 70 of the Act (like most permissions); it would not involve procedures, or result in a permission under section 73. The Guidance contained within the Explanatory Memorandum indicates that SI 2009 2261 is intended to introduce a new procedure for dealing with applications to replace an extant permission which meets specified criterion. Needless to say, this application must be treated as being a fresh application but crucially, it must also be determined in full acknowledgement that an existing, extant permission exists for the site.

Through amendments made to The Town and Country Planning (General Development Procedure Order, which the new Coalition Government consolidated in October 2010 to form the Town and Country Planning (Development Management Procedure) (England) Order 2010, greater flexibility has been added to applicants and developers to apply for an extension of time to implement approved development schemes during a period of continued economic decline. It is widely recognised that there has been a sharp downturn in the commencement of approved schemes and to avoid developers having to bare further costs and delays (if a fresh planning application was required), the Government made amendments to the GDPO. The fact that in this case and site, previous extensions have been granted, is largely irrelevant. Following the relatively recent Government revisions to planning orders, the key points are:-

Has the development (previously approved) commenced?

Is the development (previously approved) extant (i.e. time limits have not yet lapsed)?

In this case, the answer to both points is no; and therefore, the Council must duly consider the planning merits of allowing an extension of time for reserved matters to be approved before development commences on site.

6. Planning Policy

Government Guidance

PPS1 - Delivering Sustainable Development

PPS4 - Planning for Sustainable Economic Growth

PPS9 - Biodiversity and Geological Conservation

PPG13 Transport

Wiltshire Structure Plan 2011

DP4 Main Settlements

West Wiltshire District Plan - 1st Alteration 2004

E1A New Employment Allocations

T4B New Distributor Roads

7. Consultations

West Ashton Parish Council - Objects to the development proposal on the following grounds:

In the first instance we would like to refer to the planning permission granted on 7 June 2005 (W/05/00744/FUL). Due to the already severe congestion between West Ashton, Yarnbrook and Heywood it is essential that if any new permission is granted there should be no dilution of the requirements set out in paragraphs 11, 12, 13, 16 and 19 of the original permission.

Since the Westbury Bypass Inquiry some 18 months ago when approval for a bypass was not approved, no progress has been made in improving the road conditions along the A350. It is imperative therefore that before any work is commenced on the new Paxcroft Mead development or the development land the infrastructure proposals must be met.

Secondly we would like to refer to the Pegasus covering statement - Legal background to the application (page 2) - The original permission was given in 1998, this is now 2010, 12 years later. This application may accord with the criteria set out in the "Legal Background" section but there is no escaping the fact "NO" development has taken place in the 12 years since permission was granted. A reason given was because of the economic downturn, which we suggest only occurred in the past two to three years so is therefore not relevant.

We would also question why it is necessary to increase the number of dwellings from 550 to 650, almost a 20% increase. No mention has been made as to what impact this will have on the allocation of employment land, or the density of the proposed development.

In terms of timing (page 6) (ii), the applicants statement notes that "the HRR must be completed within 4 years or the completion of 450 houses at East Trowbridge". Why is this an option? It appears to afford the developer the opportunity to build 450 houses in 4 years and the HRR may or may not be built at all. In terms of the applicants last paragraph - "In order to take account of the delaysetc", the Parish Council suggest that this should be rejected since after 12 years of apparent inactivity it seems perfectly reasonable that the developer should commit.

The Parish Council consider that the increase from 550 to 650 dwellings, almost a 20% increase with no explanation whether this is density or reallocation of employment land in reality amounts to a significant material change, for which an explanation is required before any further planning permission is granted.

In summary the Parish Council concludes that this application seeks to extend the permission whilst adding a significant number of dwellings (100). It suggests an "or" condition for infrastructure i.e. roads. Therefore approval should be subject to a firm infrastructure condition of activity and timescale compatible with the dwelling timescale. Clarification of where the land is reallocated for the extra 100 houses and the permission time extension approved if work commences to improve the road infrastructure before the housing and employment development is undertaken.

Highways - No highways objection to extension of time of application 05/00744/FUL.

As highlighted above, Members wished officers to report back on two issues: firstly, the Policy position relating to the implementation of improvements at the West Ashton Crossroads (the junction of West Ashton Road and the A350), and secondly, the position regarding highway improvements at the Yarnbrook roundabout junction of the A350 with A363. The planning application seeks to renew permission for the employment land, identified at Policy E1A of the Local Plan and the recommendation by officers was to approve subject to conditions which were largely in place since the first submission for this site in 1998. The full highway position is covered within paragraph 9.1 below.

Environment Agency - No objection to the renewal of application 05/00744/FUL

Wessex Water - No comments. An informative necessary.

Spatial Planning - The proposals for this site are incorporated into the existing adopted West Wiltshire District Plan, First Alteration 2004 as allocation E1A. The delivery of this site is linked to residential development to the east of Trowbridge (allocation H11), which in turn will enable delivery of the West Ashton distributor road (to the east of the E1A allocation) and the Hilperton Relief Road (allocation T5A).

The case made by the developer relating to the current downturn in the housing market and the need for the viability of the proposed residential development to be revisited appears to be compelling. The delivery of this and the associated sites listed above are considered to be very important for the future of Trowbridge. On this basis there is a clear planning policy precedent to support development on this site. There are no policy objections to the application. Further background information is provided below which may help to give some useful context to how the above application can contribute to the wider, strategic future of Trowbridge.

Work is underway to prepare the Wiltshire Core Strategy, which will replace the West Wiltshire District Plan and provide a strategic policy framework for Wiltshire up to 2026. A document entitled 'Wiltshire 2026 - Planning for Wiltshire's Future' was published for consultation in the autumn of 2009. This included proposals for future strategic housing and employment growth in the main towns across Wiltshire, including Trowbridge. A preferred location for strategic development was set out in this document for Trowbridge, which consisted of land to the south and south east of the town, either side of the West Ashton Road. This preferred location for growth also incorporated the site which features in this application. The identification of this site followed intensive assessment of all available sites around the town and also took into consideration any consultation responses from earlier stages of the plan making process. Overall, a good level of support for this proposal was received through the consultation responses and through a workshop held with key local stakeholders. This meeting included representatives from the Town Council, Chamber of Commerce, Economic Partnership, Local elected Councillors and others.

The proposed strategic development of this site is considered to represent the most appropriate location to accommodate growth in Trowbridge to provide for the medium and long term needs of the town. The future development of this site would deliver a number of benefits to the town.

Work is also under way to prepare a master plan for Trowbridge Town Centre. This is focused on regenerating a number of brown field sites in the town centre and strengthening the quality of the town, providing additional employment, improved retailing, centrally located housing, improved public transport connectivity and contributing to improved infrastructure and facilities for the town. This work is being prepared alongside the Core Strategy and it is considered that both of these planning tools are essential to ensure the aspirations of Trowbridge residents can be delivered.

The Trowbridge master plan is being driven by the Trowbridge Vision Board. The responses to Wiltshire 2026 included the clear messages that the town needed to grow (and many responses supported increasing the level of growth to that proposed), providing a significant increase in employment land allocated and providing for job creation, and improving infrastructure delivery. In particular improvements to the A350 interchange at Yarnbrook was called for. The evidence from the Wiltshire 2026 consultation and the consultation undertaken through the Trowbridge Vision work indicates that there is a clear appetite for growth and for improvements to infrastructure, facilities and employment growth in the town.

8. Publicity

The application was advertised by site notice / press notice / neighbour notification.
Expiry date: 29 October 2010

Summary of points raised:

35 individual letters of objection received raising concerns about :

KEY PLANNING OBJECTIONS:

building work would result in a negative effect in terms of noise and increased traffic on West Ashton Road causing gridlock at busy periods;

impact on wildlife - where will deer, kestrels and bats go if the site is developed;
erosion of green buffer between Trowbridge and West Ashton;
loss of valuable agricultural land;
lost views of superb open countryside;
building on green field land and cutting down all the trees;
risks of health and safety of local residents;
is a b8 use appropriate so close to a residential area_
drainage concerns and potential affect on surrounding land;
the Government abolished the Regional Spatial Strategies and the Trowbridge Preferred Option Plan, as consulted upon in November 2009, should also be abolished;
how can one survive without employment?
shortage of hospital beds and school places and job vacancies;
doctors surgeries are already struggling to cope to meet demand;

ALTERNATIVE SITES:

why not develop a Brownfield site - there are plenty to choose from in Wiltshire, such as the old camp site at Keevil, the Spitfire retail park, the White horse business park and West Wilts trading estate as well as the unfinished site on the A350 near Melksham;
there is ample empty business premises elsewhere - is there any need for another business park / industrial estate?
building on the edge of town will exacerbate the "doughnut effect" leaving Trowbridge town centre to stagnate further. A town centre first approach should be taken;

HOUSING RELATED OBJECTIONS:

there is no requirement for the new housing. It is completely unnecessary. There are many houses and flats empty in Trowbridge, why do we need more_
housing building in the future will be market based, which will result in less homes being built in Trowbridge, which in turn will mean less need for new employment;
lack of local support for this development - does the proposal meet the context of the new localism approach which is being heralded by the coalition government;

DELAYS:

After 12 years since the original permission, there has been no forthcoming reserved matters which suggests that there is no interest or commitment to the project by the developers;
when the original outline approval was granted it was on the premise that improvements will be made to the A350 roundabout and the bypass. This scheme has clearly been abandoned;
why does the Council want to extend the urban settlement of Trowbridge?
the economic position of the country has changed and this needs to be taken into account;

LOCAL PETITION:

In addition to the above individual letters, a signed petition objecting to the development has been submitted and signed by 119 individuals.

In addition, and just prior to the committee meeting held on 8 December, the Council received a letter from Andrew Murrison MP which reiterated local objections and stated:

Having looked at the proposals, it is clear that the RSS plans, which I hope have been shelved followed the change of government, would dramatically alter the character of Trowbridge and surrounding communities. The planning application covers a major part of the RSS proposals. It is difficult to see how it would do anything other than degrade the quality of life of my constituents. The planning authority is urged to reject the application.

1 additional letter of objection recieved after 8 December raised the following points:

Had everyone in Trowbridge and the surrounding villages known about this proposal, thousands of objections would have been submitted.

There is ample vacant brownfield sites in and around Trowbridge.

The new Localism Bill indicates that local people will be given the power to approve or refuse proposals. Local people are against this application.

Within the Wiltshire Core Strategy 2010, Natural England are reputed to have said that the proposed development sites around Trowbridge are in the proximity of important maternity roosts of Bechstein bats. There is a risk that development would adversely affect these bats. This would need to be considered as part of the HRA process and should be in accordance with European Law.

West Wilts CPRE asks Members to reject the officers recommendation to approve the renewal of planning permission for employment purposes on Land at Biss Farm West Ashton.

The Secretary of State advises that applications of this nature should be refused where there is some material change, for example, a change in relevant planning policy for the area, a change in the relevant highway considerations, or the publication of new planning guidance.

1. First of all, we look at Highways. The officer's report indicates that permission is conditional on the widening of the West Ashton Road, provision of a new roundabout, new distributor roads and - very importantly - the improvement of the Yarnbrook roundabout. The latter of course is much more than a minor alteration to the road system - it involves a large infrastructure project on the A350 at Yarnbrook extending to the West Ashton crossroads. It is a major A350 'improvement'.

However since the cancellation of the Westbury Bypass and preparation of the replacement Local Development Framework, Local Plan policy TI and associated paragraphs regarding the A350, have not been saved. There is in fact no mention of a Yarnbrook West Ashton improvement in the Local Plan as a definite policy, and there is no safe-guarded corridor for the road, which is not even shown in the Local Plan Key Diagram. It would be quite wrong to agree a large new employment area when the major road improvement that is a condition of the construction of that area, has now no grounding in the Local Plan, or even in the Local Transport Plan. There is no evidence that the conditions of the outline planning permission can really be achieved.

2. In section 3 of the Officer's Report the text explains that additional new road links are safeguarded in the Plan to provide a northern link through Paxcroft Mead and the Hilperton Gap to the Staverton Diversion, Bath and the A461M4. In fact the Local Plan Inspector pointed out in 2004 that there is no route or corridor to safeguard for the Staverton Diversion, and it would not be right that applications for planning permission should be considered in the light of a non-existent route and a scheme which is not likely to be constructed in the foreseeable future. The context of the development is thus altered.

3. The Local Plan is being superseded by the Wiltshire Core Strategy. This was to use the housing numbers and employment hectares for Wiltshire from the South West Regional Spatial Strategy. However, that has now been abolished. The Core Strategy is thus stalled as we decide as a county, exactly how much new development we want, and also await the new planning legislation and policy put forward by the Coalition Government. We are operating in a policy vacuum.

4. This policy vacuum has already affected other Wiltshire policy decisions. On pages 24 and 25 of the draft Local Transport Plan for 2011 -2026 (just recently issued) Wiltshire Council sets out very clearly the lack of clarity when it came to transport funding and spatial planning outlook. The Local Transport Plan sets out a one year Implementation Plan only. Wiltshire Council's transport team refused to go further than this because of uncertainty. There is a lack of clarity in terms of planning at the moment- Wiltshire Council have said so themselves. This is not a time to renew permission for a major employment site which is part of a very large urban extension to Trowbridge. The amount of growth may be inappropriate.

5. Since the original planning permission was granted the economic position of the country has changed. The failure to take up planning permission over the last twelve years during which the economy was doing comparatively well, makes it even less likely that the land will be developed in the next years to come. The economic situation is another clear material change to take into account.

6. Wiltshire has often complained of central control by London and with the coming of the Decentralisation and Localism Bill local people will have more control, which Members will no doubt welcome. The bill will devolve greater powers to Councils and neighbourhoods and give local communities control over housing and planning decisions. There is as well, a commitment to protect green areas of particular importance to local communities. All this amounts to a fundamental change

in the way that planning is done. Renewing permission for a large unpopular development needs much more careful consideration and consultation than simply ticking the planning boxes.

9. Planning Considerations

9.1 The main issue to consider is whether or not there have been any material changes to circumstances that would indicate a need to re-visit the decision made in respect of application reference 05/00744/FUL.

Fundamentally, it is essential to note that the application proposal is consistent with Development Plan Policy. The site continues to be allocated for employment development (defined as Policy E1A). Indeed, the comments from the Council's Spatial Planning section re-enforce the point that the site is an integral part of the future development of east Trowbridge, and the Town as a whole. The Council has repeatedly recognised that the delivery of strategic employment development continues to be dependant upon two other strategic Local Plan allocations coming forward, namely:-

The residential development on land south of Paxcroft Mead (Policy H11) - the site known as East Trowbridge Development; and Paxcroft Mead and Hammond Way Link Road (Policy T5) - the road known as Hilperton Relief Road.

In addition, there is recognition that it is difficult to market and develop employment land until it is accessed and serviced with the necessary infrastructure in place. As and when the reserved matters are approved for the residential development at land East of Trowbridge and the scheme is implemented, a new roundabout junction at the top of West Ashton Road and distributor road would be provided (as they are agreed prerequisites for any employment development at this identified site labelled E1A in the Local Plan). This infrastructure would facilitate the servicing and opening up of the business park and enable effective marketing and the promotion of the employment site.

It is fully recognised that the Council has received a wide selection of objections. However, the Council has previously taken on board the issues raised. Infrastructural concerns can all be covered through planning conditions. Some locals raise concern about lack of jobs. Once granted and implemented, this site would deliver such jobs. Other concerns and objections relate largely to the principle of the development, which has clearly been established by the Council through approving previous renewals as being of great importance to the future development of Trowbridge. The comments received from the Council's spatial planning team highlight the importance of this adopted employment site.

Whilst the applicant's 8-page supporting statement explains their reasoning behind applying for a planning renewal, it has resulted in attracting quite substantial local objection to a separate residential development site. To clarify matters and to alleviate any local concern, the site subject to this application would not involve any new housing. Members are reminded that the residential outline application at land east of Trowbridge (cited above) was approved after the associated s106 legal agreement was duly signed off in December 2010.

Members are advised that this renewal application should only be determined on the following points:

1. Is it acceptable to the Council to allow an extension of time for an extant permission which the Council has identified as being of strategic importance to be developed as a business park and in the fullness of time, to provide jobs?
2. Are the attached conditions associated to 05/00744/FUL still appropriate / robust ?

In answering point 1 above, it is necessary to note that there have been no material changes to the site circumstances that would indicate a need to re-visit the decision made in respect of application reference 05/00744/FUL. There have been no relevant planning policy changes since this scheme was granted planning permission on 7 June 2005. The significant and wide reaching rapid economic downturn on a global scale is however recognised as being a material consideration worthy of note.

It is also true to say that the development of this employment site strongly relies upon the approval and implementation of the residential scheme at land East of Trowbridge (the Persimmon Homes site) and the completion of the Hilperton relief Road. A strong case has been made that the above two developments are at least 4 years away from completion and thus a condition allowing an extension of time for 5 years to submit phased reserved matters for the employment site is considered reasonable and justified.

Additional Highway Authority Comments

Members are advised that whilst adopted policy E1A stipulates that any developer would need to "undertake any necessary improvements to the West Ashton Road, its junction with the A350, and the Yarnbrook Roundabout...", the Council's Highways Authority reports that there are no identified "necessary improvements" in respect to the Yarnbrook Roundabout which could be reasonably attached to a grant of permission for this site.

Improvements at West Ashton Crossroads were not included within the conditions set down in the original 1998 submission or the renewals which followed. Policy E1A refers to improvements at West Ashton Crossroads and Yarnbrook on the basis that any necessary improvements would be undertaken as a result of the development.

Officer negotiations of Planning Agreement terms with the developer have been specifically related to the residential land of Policy H11 (land east of Trowbridge) and no specific negotiations have been undertaken for the business park/employment land. If the employment land were to come forward for development, it would be necessary for the developer to seek the necessary Highway Agreement with this Authority to obtain any necessary improvements to the road network in accordance with the conditions laid down with the planning permission.

It remains the highway authority's view that the original conditions for this outline permission are reasonable and robust and that development can proceed subject to a requirement that all necessary highway improvements would be contained within a yet to be negotiated Section 278 Highway Agreement. It is also most likely that the developer will wish to implement the residential development before implementing the employment land within the terms of the Section 106 Agreement and planning conditions which apply to that permission. Therefore, the improvements at the West Ashton Crossroads would need to be implemented before the 50th dwelling occupation of the residential development. In the unlikely event that the employment land were to be developed first, the developer would still be required to negotiate a comprehensive and largely duplicated new Agreement.

It is acknowledged that such Agreement would not include improvements at the West Ashton Crossroads and therefore the developer may, as verbally stated by the agent at the Planning Committee Meeting, be prepared to offer the inclusion of improvements at the Crossroads at an agreed trigger point, say, before first occupation of the employment land. It must be borne in mind that the proposal being considered by the Committee is the renewal of an outline planning application for development of the employment land and that the developer is progressing a start for the residential development much sooner, possibly this year. So again, there is some assurance that improvements at the Crossroads will proceed early as the residential development proceeds.

During the course of officer negotiations for the residential development, it was concluded that improvements at Yarnbrook would not result in any material improvement in traffic flow and that other improvements should be considered, including the improvements identified at West Ashton Crossroads. Although the original planning permission includes (non specified) improvements at Yarnbrook, it is now clear that substantive improvements would not materialise.

Therefore, following further discussions with the applicant, it is considered reasonable to delete reference to improving Yarnbrook Roundabout from condition 13 of the application under consideration. The applicants have also confirmed their willingness to include a requirement for improvements at West Ashton Crossroads within condition 13. It is therefore recommended that condition 13 be amended to include "improvements at West Ashton Crossroads" to replace "improving Yarnbrook Roundabout". The condition requires that all highway improvements will be subject to a phasing programme and full technical approval.

Additional Policy Comments

In addition to the above, the Council's spatial planning team were re-consulted and they advise that providing the Highways Authority are fully satisfied with the level of "necessary" highway improvements, there would be no policy objection, or indeed any conflict. The wording of policy E1A is very clear in this regard.

The Applicants Additional Justification

The Business Park is intrinsically linked to the East Trowbridge Residential development. As part of negotiations on the East Trowbridge development, a package of Highway Works was very recently agreed that will serve both the residential development and the Business Park.

How the Infrastructure is to be funded

1. The delivery of the Business Park will be residential-led.
2. It is the residential development that will fund the infrastructure to serve the employment site, including the Hilperton Relief Road (HRR) the East Trowbridge Distributor Road (ETDR) and improvements to West Ashton Road.
3. There is no other funding currently available to deliver this infrastructure without the residential development.
4. In view of current levels of demand for new employment floorspace combined with the uncertain economic conditions it is highly unlikely that the development of the Business Park will proceed on a speculative basis and in advance of the residential development.
5. Unless a very large employer unexpectedly came to the town then it is highly unlikely that a tenant of the Business Park would be willing to fund improvements to West Ashton Road and the junction off West Ashton Road.

In view of the above, it can be seen that there is no alternative funding mechanism that would suggest that the Business Park will be implemented in advance of the residential development.

Reasons for the delay

6. Persimmon has been pursuing the East Trowbridge site for residential development for over 10 years through the Local Plan process, and then with a planning application. The planning permission was only issued in December 2010.
7. Persimmon also had to secure planning permission for the Hilperton Relief Road (HRR).
8. It is only now that the planning permissions have been issued that the company can proceed with the residential development and the related infrastructure (which the Business Park is also reliant upon).
9. The core business of Persimmon Homes is house building and the company will make an early start on the East Trowbridge residential development. The residential development will commence before any employment development at the Business Park.
10. Nonetheless Persimmon will continue to market the Business Park land in order to maximise the chances of finding tenants.

It can therefore be seen that there are legitimate reasons that explain why the Business Park development has been delayed and why it has not been delivered within the timescales previously envisaged when the planning permission was originally granted, and indeed when it was later renewed.

The required Highway Works

11. The Council has included provisions in the Section 106 Agreement for the East Trowbridge development to ensure that the necessary Highway Works (listed in Schedule 1) are provided as and when they are required (part 6 covers the timing mechanisms).

12. The scheme of Highway Works was devised in the knowledge that they would also need to accommodate the Business Park proposals.

13. The list of Highway Works does not include Yarnbrook Roundabout as it was agreed that such improvements would not achieve any material improvement.

14. Members are aware that the Site Allocation (Policy E1A) makes reference to the developer undertaking:-

"..any necessary improvements to the West Ashton Road, its junction with the A350 and the Yarnbrook Roundabout associated with the employment development."

Council officials agree that the works to Yarnbrook are not necessary. The Local Plan policy has been overtaken by events and the latest evidence confirms that the works are not necessary because they would not result in any material improvement as noted above. The latest position is that an alternative package of Highway Works (as secured under the s.106 agreement for the residential development) will be sufficient to enable both the residential and employment developments to proceed.

15. The aforementioned s.106 does secure improvements to West Ashton Road (see paragraph 1.5 of Schedule 1).

It can therefore be concluded that the package of Highway Works that has already been agreed as part of the residential development is appropriate and sufficient in all the circumstances.

Timing of Highway Works

16. The s.106 requires, inter alia:-

a. No dwelling to be occupied until the Highway Works are commenced (see Clause 6.2 and Schedule 1).

b. The improvements to West Ashton Road will be undertaken prior to the occupation of the 50th dwelling (Clause 6.12.3)

c. The HRR and ETDR must be open before:-

(i) 450 dwellings are constructed, or

(ii) 225 dwellings and 50% of the Gross Floor Area of the Business Park (Clause 6.7)

and in any event:-

(iii) 4 years from the first residential occupation (clause 6.8)

17. These trigger mechanisms guarantee the timely delivery of highway infrastructure and thus enable the residential and employment developments to go ahead as planned.

18. The residential development will be built out from the north. In the early years it will also be accessed by residents only from the north.

19. Consistent with this, the s.106 prevents houses being accessed via the southern stretch of the ETDR (ie. the link between West Ashton Road and the roundabout at the southern end of the East Trowbridge residential area) before the occupation of the 225th dwelling.

20. Insofar as the residential development is concerned, Persimmon is unlikely to have the access off West Ashton Road in place prior to the 225th dwelling (other than as a temporary construction access).

21. Persimmon can build 450 dwellings before needing to complete the ETDR.

22. Regardless of this, the improvements to West Ashton Road would be delivered very early (50th dwelling occupation) which will be of benefit to the wider community well before any residential traffic would be using West Ashton Road.

It can therefore be concluded that the S.106 will ensure that all of the necessary infrastructure will be delivered, and that it will be delivered in accordance with previously agreed trigger points to ensure that there is sufficient infrastructure in place to serve both developments when it is needed.

Time limits for the Business Park Planning Permission

At the committee meeting on 8 December 2010, some Members of the Planning Committee suggested that the planning permission should allow a period of 3 years for submission of reserved matters for the Business Park mainly because of previous delays in bringing the site forward. However as explained above the main reason for the delay has been the delays associated with the East Trowbridge residential development, which were also prolonged by the downturn in the economy.

Whilst Persimmon will continue to market the site and seek to bring it forward as soon as is practicable, it is considered that the circumstances in this case indicate that a longer time period would be more appropriate for the following reasons:-

23. Given that the Business Park will be residential led, it will take time for Persimmon to:-

- a. Secure Approval of Reserved Matters for the housing
- b. Undertake preliminary works on the East Trowbridge site
- c. Start delivering dwelling units

24. Persimmon is currently in the process of buying the land for the residential development and it is hoped that work will start on site within 1 year. Notwithstanding this, it is estimated that it would take circa 4 years for Persimmon to deliver 450 dwellings (this being the trigger point for the HRR and ETDR to be in place and operational including the roundabout and access road that would serve the Business Park).

25. Prospective tenants for the Business Park are unlikely to show interest in a site with no access in place.

26. If the access road off West Ashton Road will not be in place for up to 4 years then there is no realistic prospect of all reserved matters for a 12.1ha Business Park being submitted within 3 years.

27. The Applicant would not be able to renew the permission again in three years time as the legal provisions for renewing permissions do not apply to permissions granted post 1st October 2009.

28. If the planning permission lapses in 3 years then a fresh application would need to be submitted. This would have cost and resource implications for both the Applicant and the Local Planning Authority. It would also give rise to uncertainty which will unsettle potential tenants.

29. If there is a lack of certainty or the planning permission lapses in 3 years time employers will look elsewhere. It will give other towns a comparative advantage over Trowbridge which will undermine the efforts to regenerate the town.

30. There is no reason to suggest that a longer time period would prejudice important future planning decisions when:-

- a. The site remains the preferred location for employment development for the purposes of the emerging LDF
- b. There are no other comparable employment sites

Overall it is considered that there is no obvious planning reason for imposing such a short time limit on a strategic employment site particularly when the related infrastructure is dependent on other development and take up rates on employment sites (which are already low) will continue to be constrained by the uncertain economic climate.

What if the business Park is built out first?

The Applicant is mindful that Members asked what would happen if the residential development is never implemented and the Business Park is developed out first

This scenario is highly unlikely because of the Business Park being residential led and there being no obvious alternative source of funding for road infrastructure. The only scenario where the employment might come forward early is if a single large employer was to express an interest in the site. No such interest currently exists.

It is however recognised that it would be in the interests of good planning to address the matter for completeness.

It is considered that the matter could be addressed with the use of a Grampian Condition which requires a scheme of works to be agreed before development commences and for the phasing of those works to be agreed and subsequently implemented to ensure that they are in place at the appropriate time.

Conditions

In response to point 2 above, several of the conditions as attached to application 05/00744/FUL have been modified to make them more robust and precise. Others required some revision to ensure that the terms of this permission does not stymie undertaking infrastructure improvements as required by policy. Members are asked to note that condition 4 has been materially altered to delete the reference to provision of public open space, which is not required by policy or considered necessary by the Council's Landscape Officer. Condition 13 has been materially amended since this application was last reported to committee. It has been amended following a further assessment by the Council's Highways Authority and accords with the above officers report.

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 Approval of details of the layout, scale and appearance of the building(s), means of access thereto and the landscaping of the site ("the reserved matters") for each phase of the development shall be obtained from the local planning authority in writing before any development in that phase is commenced.

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 and Article 3 of the Town and Country Planning (General Development Procedure) (Amendment) (England) Order 2006.

- 2 i) Application for the approval of reserved matters shall be made to the local planning authority before the expiration of 5 years from the date of this permission;
ii) The development hereby permitted shall be begun either before the expiration of 5 years from the date of this permission, or before the expiration of 2 years from the date of approval of the last reserved matter(s) to be approved, whichever is the later.

REASON: The application was made for outline planning permission and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990 and Article 3 of the Town and Country Planning (General Development Procedure) (Amendment) (England) Order 2006.

- 3 The details submitted pursuant to condition 1 above, shall include a phasing programme including highway and infrastructure improvements shall be approved in writing by the local planning authority. Thereafter, the highway and infrastructure improvements in each phase shall be carried out in full accordance with the approved plans (pursuant to condition 1), prior to any building being brought into use on that phase.

REASON: In order to define the terms of this permission.

- 4 In order to ensure an appropriate mix of uses in accordance with the objectives of the Development Plan, and the employment requirements of the area, each phase of development shall provide that not less than 70% of the gross floor space of any subsequently approved building(s) shall fall within B1 or B2 Use Classes as defined with the Town and Country Planning (Use Classes) Order 1987.

REASON: In order to define the terms of this permission.

- 5 To ensure a satisfactory landscaped setting for the development, the site shall be landscaped in accordance with a landscaping scheme which shall be subject to the prior approval of the local planning authority and shall be carried out concurrently with each agreed phased stage of the development. The approved scheme for each stage shall be implemented in the first appropriate planting season of the implementation of that stage using trees and shrubs of approved species and height and be maintained thereafter for a period of not less than five years. Any tree and shrubs which fail within that period in that stage shall be replaced with the agreement of the local planning authority and be subsequently maintained for a further period of five years.

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

POLICY: West Wiltshire District Plan Policy C32 and C40.

- 6 To reserve control to the local planning authority over the external materials of construction and to ensure that the appearance of the buildings is in keeping with the established local character, a schedule of the external materials to be used in the construction of building(s) shall be submitted to and approved by the local planning authority prior to any building(s) being constructed on site. No buildings shall be constructed until details relating to the buildings have been approved. The buildings shall thereafter be constructed in accordance with the approved details.

REASON: In order to define the terms of this permission.

- 7 In the interests of flood prevention, no development pursuant to the erection of any building(s) shall be commenced until a scheme of positive surface water drainage to the River Biss has been designed, agreed by the local planning authority, and constructed to the satisfaction of the Council. Such a scheme shall include for the provision of sheet run-off from the site to be discharged via a new drainage ditch from the site to the River Biss.

REASON: In the interests of flood prevention.

POLICY: Government Guidance PPS25 - Development and Flood Risk.

- 8 In the interests of flood prevention, no development pursuant to the erection of any building(s) shall be commenced until a scheme of realigning the Blackball Brook and the regrading of the floodplain has been designed, agreed by and completed to the satisfaction of the local planning authority. Such works shall make provision for future maintenance access to the brook and subsequently no development shall take place within 30 metres of the Brook.

REASON: In the interests of flood prevention.

POLICY: Government Guidance PPS25 - Development and Flood Risk.

- 9 In the interests of pollution control, no development pursuant to the erection of any building(s) shall be commenced until a scheme showing the location of all areas required for the open storage of goods, materials and wastes has been submitted and agreed in writing by the local planning authority. All vehicle parking areas, service areas and yard spaces shall be constructed of impermeable materials and suitably sized oil/chemical/petrol interceptors shall be incorporated in related surface water drainage systems.

REASON: To prevent pollution of the water environment.

POLICY: Government Guidance PPS23 - Planning and Pollution Control.

- 10 In the interests of pollution control, all oil or chemical storage tanks shall be surrounded by an impervious bund with a retention capacity of at least 110% of the largest tank within the bunded area and no working connections shall be made outside the bunded area. Waste oils and chemicals shall be collected and disposed of in an approved manner and no waste oils or chemicals shall be discharged to any drainage system.

REASON: To prevent pollution of the water environment.

POLICY: Government Guidance PPS23 - Planning and Pollution Control.

- 11 In the interests of highway safety, there shall be no vehicular access to the employment site other than via a new roundabout on the West Ashton Road.

REASON: In order to define the terms of this permission.

- 12 The details of access to the site (pursuant to condition 1 above) shall include a distributor road between the site access roundabout as indicated in outline on drawing no. FP 089/ Rev E on the West Ashton Road and the north-eastern boundary of the site on a line and level to be agreed with the local planning authority. There shall be no direct frontage access to the distributor road, and no more than two side road junctions onto the distributor road.

REASON: In order to define the terms of this permission.

POLICY: West Wiltshire District Plan Policy T4

- 13 No development shall commence on site until a scheme of works for the widening of the West Ashton Road, improving Blackball Bridge and West Ashton Crossroads, and providing for the completion of a road link from the West Ashton Road to the north-eastern boundary of the site has been submitted to and approved in writing by the local planning authority. The scheme shall include a detailed phasing programme relating the progress of the works to occupied floor space on the site. All highway works/infrastructure improvements shall be carried out in full accordance with the approved scheme.

REASON: In the interests of highway safety.

POLICY: Government Guidance PPG13 - Transport.

- 14 To ensure that the extension of the distributor road is not prejudiced by the failure to complete the part of the works within the site in a reasonable timescale, no more than 20,000 square

metres of gross floor space on the site shall be occupied until arrangements securing the completion and adoption of the distributor road to the north-eastern boundary of the site, have been submitted to and approved in writing by the local planning authority.

REASON: In order to define the terms of this permission.

POLICY: West Wiltshire District Plan Policy T4

- 15 To ensure safe access to the site, no development, other than that relating to site earthworks, drainage, landscaping and access works shall be commenced until the roundabout, indicated in outline on drawing no. FP 089/3 Rev E, has been completed with the written approval of the local planning authority.

REASON: In the interests of highway safety.

- 16 In the interests of highway safety and to encourage transport modes other than the private car, no building(s) shall be occupied until the following provision has been made for pedestrians and cyclists:

i) a pedestrian crossing on the West Ashton Road at the western extremity of the site;
ii) a footpath/cycleway route linking the pedestrian crossing on the West Ashton Road with the proposed Eastern Distributor Road and the proposed Biss Meadows Country Park;
iii) other footpath/cycleway routes connecting to ii) above to provide access through the rest of the site. Such provisions shall be in accordance with details that shall have first have been submitted to and agreed in writing by the local planning authority before any development pursuant to the erection of any building(s) is commenced on site in connection with the development hereby permitted. Development shall take place in full accordance with these approved details.

REASON: To ensure that satisfactory facilities for pedestrian and cyclists are provided and to encourage travel by means other than by the private car.

POLICY: Government Guidance PPG13 - Transport and West Wiltshire District Plan Policy T11 and T12.

- 17 In the interests of highway safety, the field accesses shown at points D and E on drawing no. FP 089/3 Rev E shall be permanently stopped up and replaced by a single agricultural access shown at point F prior to any building on the site being occupied, in accordance with details to be submitted to and approved by the local planning authority.

REASON: In the interests of highway safety.

- 18 To prevent pollution of the water environment, details of a scheme for the provision of foul drainage works shall be submitted to and approved by the local planning authority before any development pursuant to the erection of any building(s) is commenced on site. Once approved, the scheme shall be carried out in full accordance with the agreed scheme and proposed phasing.

REASON: To prevent pollution of the water environment.

POLICY: Government Guidance PPS23 - Planning and Pollution Control.

- 19 In order to protect the visual amenities of the area, the submission of landscaping details as required by condition 5 above, shall include a permanent 30 metre landscaping buffer around the site which shall require the prior approval of the local planning authority prior to the erection of any building(s) on the site. The prior approval of the local planning authority will also be required in terms of the phasing and future maintenance of the landscaping buffer for the lifetime of the development.

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

POLICY: West Wiltshire District Plan Policy C32.

- 20 To ensure adequate parking and servicing provision is available at the time future uses are commenced, detailed plans of the parking and servicing areas, together with the means of access thereto, shall be submitted to and approved by the local planning authority before the erection of any building(s) to which it relates commences on site. The detailed proposals shall indicate the provision to be made for the draining of the parking and servicing areas, the individual marking and landscaping of car parking spaces and serviced areas where appropriate and full details of their method of construction. All works referred to in this condition shall be completed and the parking/servicing areas shall be available for use before the buildings to which they relate are occupied.

REASON: in the interests of highway safety.

POLICY: West Wiltshire District Plan Policy T10.

- 21 In order to protect the visual amenities of the area, the submission of details as required by condition 5 above, shall include a plan indicating the location of all existing and proposed trees and hedgerow along with a schedule identifying each species.

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

POLICY: West Wiltshire District Plan Policy C32 and C40.

- 22 In order to protect any wildlife interest on the site, prior to the commencement of any development on site (i.e. building work or infrastructure improvements), an ecological survey shall be carried out to establish the presence of any protected species on or immediately adjacent to the site, the level of any identified population and the extent their habitat. The survey results and any necessary mitigating measures to avoid causing harm to any protected species shall be submitted and approved by the local planning authority. Details submitted pursuant to condition 19 above shall, as appropriate, include any necessary measures to safeguard any protected habitats and species found on site. Following the approval of such details, any agreed mitigation shall be implemented in accordance with an agreed timetable and phasing, as appropriate.

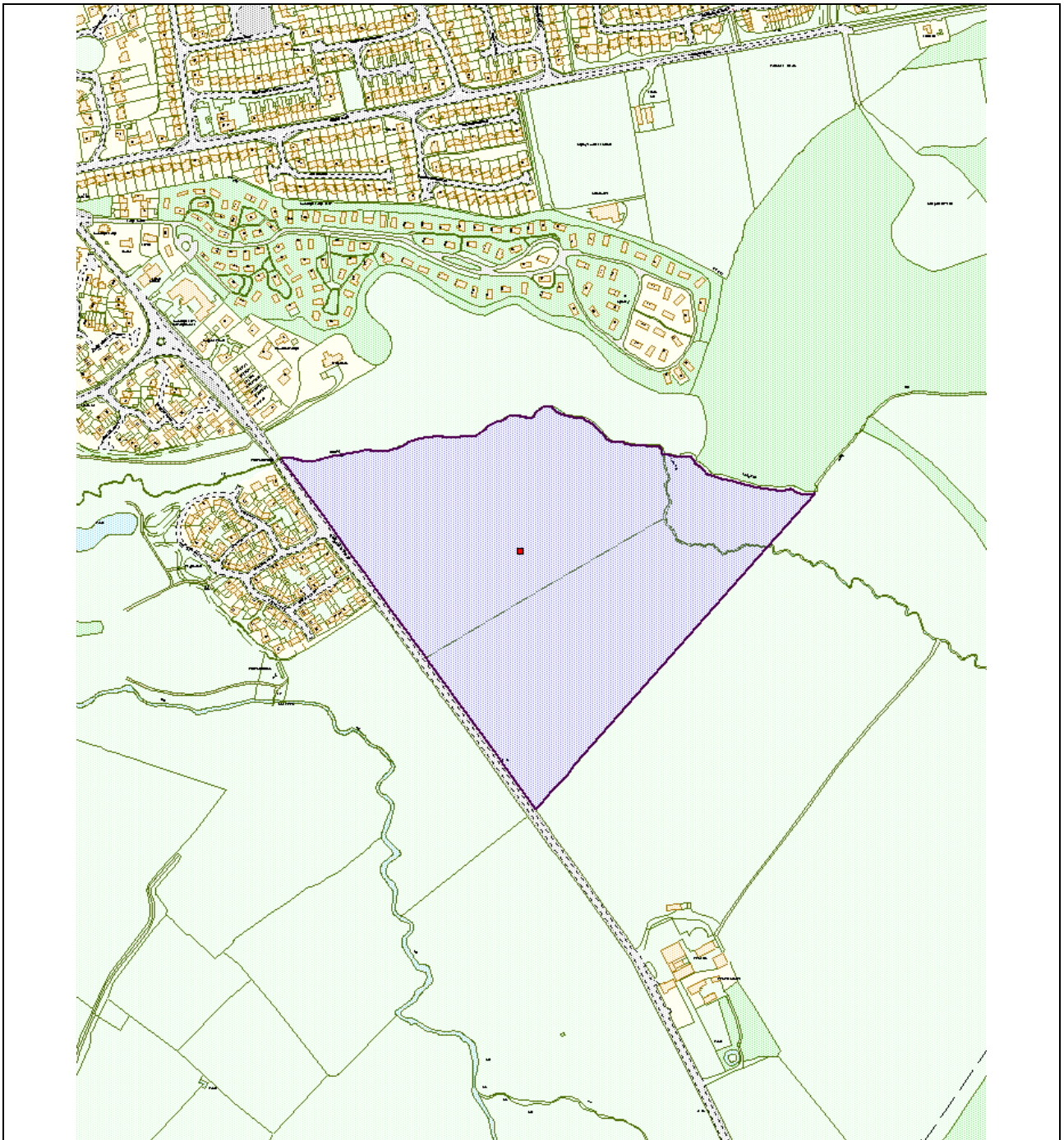
REASON: To mitigate against the loss of any existing biodiversity and nature habitats.

POLICY: Government Guidance PPS9 - Biodiversity and Geological Conservation.

Informative(s):

- 1 Prior to any commencement of development on site, the applicant/developer is advised to contact Wessex Water to agree future connections to the public water and foul drainage systems.

Appendices:	
Background Documents Used in the Preparation of this Report:	



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RELEVANT APPLICATION PLANS

Drawing : P.0639_01 SITE PLAN received on 21.09.2010