

14th August 2018

Dear Wiltshire council and Strategic Planning Committee

Planning app 17/07793/FUL Wavin

1. Introduction

This letter makes a number of recommendations for amendments to the planning approval of the above application. Their adoption would markedly improve alignment with planning policies and amenity without, in any way, jeopardizing the requirements of the applicant to optimize operational arrangements. We request that the Strategic Planning Committee incorporates these recommendations into its decision.

2. The proposal

The key elements of this proposal are the relocation of Parsonage Way to the north of its current alignment, the creation of a new, additional junction between Parsonage Way and the B4069 and the creation of a roundabout at the eastern end of the site.

The application started life proposing a T-junction with B4069 in August 2017. It was then modified to a gyratory roundabout in November 2017. Finally, the proposals were revised again to a double roundabout in April 2018. We note that the Parish Council has responded with concerns to all three variants. This letter sets out those areas which the Parish Council and the Residents Association do not believe have been addressed adequately or at all.

3. Issue 1 Need for extension to bund and northern perimeter tree planting

In its response posted 26th October 2017, LBPC noted:

Currently, lorries and stock are visible from the field to the north of the site during the day. At night, there is markedly more light pollution than before the expansion. This significantly detracts from the amenity value of the area. In order to provide more effective containment of light and noise pollution and to provide more effective visual screening of the link road, stockyard, car park and factory, we would expect the existing bund to be extended along the whole length of the diverted Parsonage Way.

No attempt has been made to include an extension to the bund and associated planting for screening purposes even though Wavin's own Heritage consultants C1 support such steps. Its settings assessment dated November 2017 states:

Langley Burrell Conservation Area will see some cumulative impact from an increase in road traffic noise and, from a limited area, visibility of traffic passing along the road.

Mitigation in the form of noise reduction measures might lessen the impacts on the setting of Kilvert's Parsonage, with the added consideration of reducing potential increased noise for the Conservation Area.

Similarly, in its rebuttal (24th April 2018) to the continuing concerns of Historic England dated 23rd April 2018, C1 notes:

Nevertheless, this does not mean that any new development should not be designed in such a way as to limit the effects of encroachment, so that the historic driveway to Kilvert's Parsonage (shown on 19th century maps) provides the same rural experience, and that glimpses from the southern edges of the copse towards the site are not dominated by the development. There is also the significant issue of noise, and while the copse would in part serve as a filter, it is important that additional measures are introduced.

Despite the more recent expansion of the Wavin factory close to the southern edge of Kilvert's Parsonage, trees and groups of woodland in combination with the parsonage copse are important in helping to provide separation between Langley Burrell and Chippenham.

Nevertheless it is important to provide screening; this will not only offer some protection to the approach to Kilvert's Parsonage on the south side of the copse but would also soften the distant view from Langley Burrell. Perhaps most significant is the increased noise level, adding to the existing hum of background noise from the factory,

A treeline would also perhaps harmonise with the plantation around Kilvert's Parsonage and partly mitigate the audible/lighting pollution.

The felling of trees on site has already increased the intervisibility of the works from the Parish and Conservation Area as has the extension of the site north of Parsonage Way. Footpath LBUR 5 used to afford a pleasant country walk. It is now spoilt by uninterrupted views of the stockyard, HGVs and giant stacks of plastic tubes etc. (See photos below) The relocation of the road will exacerbate these intervisibility and urbanization issues. The extension of the bund and planting of a continuous tree screen would do much to mitigate the harm to the heritage and amenity of the area north of the site by providing a barrier to light, noise and unsightly views inconsistent with a rural environment.



Photos taken from footpath LBUR 5

There is non-conformity with Core Policy 51 which states:

Landscape

Development should protect, conserve and where possible enhance landscape character and must not have a harmful impact upon landscape character, while any negative impacts must be mitigated as far as possible through sensitive design and landscape measures. Proposals should be informed by and sympathetic to the distinctive character areas identified in the relevant Landscape Character Assessment(s) and any other relevant assessments and studies. In particular, proposals will need to demonstrate that the following aspects of landscape character have been conserved and where possible enhanced through sensitive design, landscape mitigation and enhancement measures:

- i. The locally distinctive pattern and species composition of natural features such as trees, hedgerows, woodland, field boundaries, watercourses and waterbodies*
- ii. The locally distinctive character of settlements and their landscape settings*
- iii. The separate identity of settlements and the transition between man-made and natural landscapes at the urban fringe*
- iv. Visually sensitive skylines, soils, geological and topographical features*
- v. Landscape features of cultural, historic and heritage value*
- vi. Important views and visual amenity*

The failure to require mitigation by an extension of the bund and the planting of a tree screen along the northern perimeter is a breach of CP51, especially (iii) by failing to provide for mitigation to reduce the harm at the transition at the urban fringe.

A bund extension and line of trees would also mitigate the breach of CP58:

Development should protect, conserve and where possible enhance the historic environment.

Designated heritage assets and their settings will be conserved, and where appropriate enhanced in a manner appropriate to their significance, including:

- i. Nationally significant archaeological remains*
- ii. World Heritage Sites within and adjacent to Wiltshire*
- iii. Buildings and structures of special architectural or historic interest*
- iv. The special character or appearance of conservation areas*
- v. Historic parks and gardens*
- vi. Important landscapes, including registered battlefields and townscapes.*

We therefore request the inclusion of a planning condition requiring the extension of the bund and the planting of a hedge and treeline along it to:

- i) mitigate the impacts on the heritage and amenity value of the area**
- ii) to mitigate impacts on the nearby residents**
- iii) to protect footpath LBUR 5 as far as is possible.**
- iv) to comply with Wiltshire Core Policies**

4. Non-conformity with LBNP

Local communities are encouraged by central government and WC to produce neighbourhood plans. It is asserted that these will allow local communities to influence development in their areas. Enormous effort went into producing the LBNP. It is therefore extremely disappointing that the policies of the plan are being ignored in the consideration of this development. Contrary to the assertion on page 7 of the report, it is the considered view of residents that the proposed approval absolutely does NOT comply with PB1. The extension of the bund and a line of tree screening would provide mitigation to the visual and audio impacts of cars on the relocated bypass, consistent with PB1.

LPs 1(i),1(ii), 1(iii) and 1(v) as well as HP1 also require the application of the above two mitigation measures.

5. Lack of coherent and prioritized pedestrian and cycle proposals

As noted in LBPC's April 2018 response, the proposal does not prioritize pedestrians and cyclists; it only proposes uncontrolled crossings around the roundabouts. Pedestrians and cyclists will be subject to substantial extra dangers in navigating the double roundabout junction. This contravenes both the WCS and NPPF (para 35 2012 version).

The lack of controlled crossing will also undermine the residential amenity of both current and prospective local residents. The conclusion at para 9.7 of the report that there is no harm to Residential Amenity is therefore unfounded.

The failure of this "transport and infrastructure improvement" to provide adequately for cyclists and pedestrians also breaches CP48 which states:

Improving access to services and improving infrastructure

Proposals which will focus on improving accessibility between towns and villages, helping to reduce social exclusion, isolation and rural deprivation, such as transport and infrastructure improvements, will be supported where the development will not be to the detriment of the local environment or local residents.

See also section 6 below.

Consistent with WC's sustainability aspirations and its policies and to mitigate adverse effects on residential amenity, a condition of approval should be that crossing points are either zebra or pelican both for cyclists and pedestrians.

6. Non-compliance with Core Policy 34

CP34 states:

Outside the Principal Settlements, Market Towns and Local Service Centres, developments that:

- i. Are adjacent to these settlements and seek to retain or expand businesses currently located within or adjacent to the settlements; or*
- ii. Support sustainable farming and food production through allowing development required to adapt to modern agricultural practices and diversification; or*
- iii. Are for new and existing rural based businesses within or adjacent to Large and Small Villages; or*
- iv. Are considered essential to the wider strategic interest of the economic development of Wiltshire, as determined by the council*

will be supported where they:

- v. Meet sustainable development objectives as set out in the policies of this Core Strategy; and*
- vi. Are consistent in scale with their location, do not adversely affect nearby buildings and the surrounding area or detract from residential amenity; and*
- vii. Are supported by evidence that they are required to benefit the local economic and social needs; and*
- viii. Would not undermine the delivery of strategic employment allocations; and*
- ix. Are supported by adequate infrastructure.*

It is accepted that 34(i) applies. It is accepted that WC will say that 34(iv) applies. However, the discussion of criterion v is highly selective. It focuses on the only element of (v) which is met. There are other elements which are failed. These include:

Core Policy 60

Sustainable Transport

The council will use its planning and transport powers to help reduce the need to travel particularly by private car, and support and encourage the sustainable, safe and efficient movement of people and goods within and through Wiltshire.

This will be achieved by:

- i. Planning developments in accessible locations*
- ii. Promoting sustainable transport alternatives to the use of the private car*
- iii. Maintaining and selectively improving the local transport network in accordance with its functional importance and in partnership with other transport planning bodies, service providers and the business community*
- iv. Promoting appropriate demand management measures*
- v. Influencing the routing of freight within and through the county*
- vi. Assessing and where necessary mitigating the impact of developments on transport users, local communities and the environment.*

Core Policy 61

Transport and New Development

New development should be located and designed to reduce the need to travel particularly by private car, and to encourage the use of sustainable transport alternatives.

As part of a required transport assessment, the following must be demonstrated:

- i. That consideration has been given to the needs of all transport users (where relevant) according to the following hierarchy.*
 - a. Visually impaired and other disabled people*
 - b. Pedestrians*
 - c. Cyclists.*
 - d. Public transport.*
 - e. Goods vehicles.*
 - f. Powered two-wheelers.*
 - g. Private cars.*
- ii. That the proposal is capable of being served by safe access to the highway network*
- iii. That fit for purpose and safe loading/unloading facilities can be provided where these are required as part of the normal functioning of the development.*

Where appropriate, contributions will be sought towards sustainable transport improvements and travel plans will be required to encourage the use of sustainable transport alternatives and more sustainable freight movements.

Core Policy 63

Transport Strategies

Packages of integrated transport measures will be identified in Chippenham, Trowbridge and Salisbury to help facilitate sustainable development growth. The packages will seek to achieve a major shift to sustainable transport by helping to reduce reliance on the private car and by improving sustainable transport alternatives.

Each of the packages will consider the implementation of the following.

- i. New and improved networks of routes for pedestrians and cyclists.*
- ii. Enhanced public transport services and facilities.*
- iii. Traffic management measures.*
- iv. Demand management measures.*
- v. Selective road improvements.*

*vi. Interchange enhancements that are safe and accessible by all.
vii. Smarter choices measures.*

These will be supported and implemented through developer contributions, LTP funding and joint working with partners and others.

Uncontrolled crossings clearly do not satisfy these sustainability policies. Consequently CP34(v) is not satisfied.

Criterion (vi) is plainly not satisfied, contrary to the assertion on page 7. Even within the report it is accepted that there will be adverse effects on residential amenity, the surrounding area and nearby buildings.

Criterion (vii) is not met. No clear evidence has been adduced that the implementation of this application will increase employment. (See section 10)

Criterion (ix) is not met, contrary to the claim of page 7; it has yet to be demonstrated that the double roundabout proposals are fit for purpose in light of the traffic volumes which might be expected.

For all these reasons, the statement on page 6:

“With respect to CP34 it is considered that the proposals meet the relevant provisions and criteria of this policy. “

is unfounded. No reasonable planning authority could reach a conclusion that CP34 is satisfied.

The argument that CP34 is satisfied would be more credible if our recommendations for conditions are accepted.

7. Inadequate planning integration with the North Chippenham and Rawlings Green proposal

Proper co-ordination with adjacent schemes is a key issue for this scheme. According to the report to the SPC:

- Page 1: The application is reported to the Strategic Planning Committee given the relationship and potential impacts to neighbouring strategic development sites and allocations.
- Page 7: It is essential that the application proposal accords with and does not prejudice delivery of these sites. Initial application proposals were considered to fail in this particular respect.

Page 8: The application involves significant works to the highways network in a location where major development is underway and is proposed.

Adequate co-ordination is also a key concern of the Rawlings Green developer. According to page 6 of the Report:

It should also be noted that the applicant team for the Rawlings Green Development has submitted multiple representations of objection to the scheme proposals. In summary they

consider that the submitted details are insufficient to demonstrate that the proposals can be delivered without prejudicing delivery of the rail bridge that provides access to the Rawlings Green site.

WC's Highways expert also states:

The revised scheme also allows for the permitted North Chippenham development B4069 roundabout to proceed as intended (now a commitment), and for the Rawlings Green proposals to proceed, when permitted; both can proceed independently of the Wavin proposals. There is therefore no inter-dependency between developers, and all three developments can proceed independently on the basis of the revised scheme, **subject only to timing restraints** (Emphasis added).

This is reflected in the following proposed planning condition:

15. Prior to the commencement of the development, the approved roundabout on the B4069 serving the North Chippenham mixed use site (Ref: N/12/00560/OUT) shall have been fully constructed and adopted, unless a formal legal agreement has otherwise been entered into between the local highway authority, the developer responsible for the North Chippenham B4069 roundabout and the applicant, which secures the delivery of a combined double roundabout junction.

REASON: To minimise highway disruption resulting from the double roundabout proposals, and to ensure that maintenance responsibilities are not obfuscated between developers.

However no evidence is adduced that the conversion to a double roundabout will not necessitate modifications to the "North Chippenham" roundabout.

We submit that this issue should be resolved in the interests of efficient planning and minimizing the disruption to local residents before this scheme is approved.

In addition, Parsonage Way is an essential route for construction vehicles to access the Rawlings Green rail bridge site. We submit that this timing issue renders the two schemes very much interdependent.

Section 9.8 of the report to the SPC notes that:

Section 106 Planning Obligation

An agreement is required to address the following requirements:-

reasonable endeavours to ensure that the delivery of the railway bridge by others is not delayed or its construction prejudiced in any way as a result, directly or indirectly, of the design or implementation of the proposed works.

It is evident that WC's Highways expert and the Rawlings Green developer regard timing issues as having the potential to disrupt delivery of CSAP schemes. A planning obligation to resolve these is not included in the recommended planning conditions. A planning obligation is recommended for the S106 agreement. However, given the potential for considerable detrimental interactions

between works to relocate Parsonage Way and works to build the bridge which need access via Parsonage Way, “reasonable endeavours” is far too weak a requirement. The two applications need to be treated as two elements of an overall project. They must be managed and co-ordinated as such.

8. Failure to demonstrate the viability of the double roundabout scheme

In its response (17th April 2018) to the double roundabout version of the application, LBPC expressed concern that:

Insufficient spacing between the roundabouts will provide a logjam back onto adjacent roundabout, blocking access for those who want to go round the roundabout rather than access the blocked exit.

Documents subsequently received confirm that this worry is justified.

The Arcady Junction 9 modelling for the double roundabout (posted on 20th April 2018) contains the following warning:

If the distance between linked junctions is small, results should be treated with caution. The linked junctions will be modelled as separate junctions, but the real behaviour may be that of a complex system with interactions that cannot be modelled.

The “PARSONAGE WAY, CHIPPENHAM PROPOSED ROUNDABOUT JUNCTIONS Stage 1 Road Safety Audit April 2018” records the following problem:

3.11 PROBLEM LOCATION: Section of Langley Road between double roundabouts.
SUMMARY: Queuing vehicles may overhang circulatory carriageways. Should traffic queue within the short section of carriageway between the double roundabouts there may be instances where vehicles (particularly long vehicles) may overhang the circulatory carriageway of the roundabouts. This may lead to lane change or shunts type conflicts within the circulatory carriageways. RECOMMENDATION Assess, through traffic modelling for instance, whether such queuing is likely to occur and block back through onto the roundabout circulatory carriageways. If this is a likely and frequent occurrence it may be beneficial to separate the junctions further.

Hydrock’s Road Safety Audit Stage 1 RDW/TS/18/1692/RSA1; Ref: C14930 – Stage 1 RSA Designer’s Response 18 April 2018 replies:

Agreed. The junction modelling will be undertaken by the appointed Transport Planning consultant and modelling made available to Wiltshire Council for assessment.

Despite these caveats, WC’s Highways expert concludes (April 2018) that:

I am now able to offer a recommendation for a conditional approval to the proposals. The revised arrangements represent an acceptable compromise

It is, however, evident from the above that there is no basis yet for his conclusion that:

junction arrangement on the B4096 will be functionally acceptable, and capable of dealing with highway operational requirements.

The statement on page 9 of the Report¹ is, similarly, fundamentally flawed.

Such a conclusion is presently unsafe. It is evident from the diagrams that a single HGV will fill the distance between the two roundabouts. Further evidence needs to be adduced regarding the medium term loading. Even so, the WC Highways expert concedes that:

The junction Arrangement is not as efficient as might have been otherwise achieved.

In practice, the interactions and problems are likely to be even more severe: drivers trying to exit Hill Corner Road to turn right down Pew Hill will, in practice find this manoeuvre next to impossible. Instead they will turn left and execute a 180 degree turn at the southern double roundabout. This will load the junction more heavily than crude modelling will show. And Hill Corner Road traffic will increase markedly because this is the only exit point for many residents of the new North Chippenham site. And, the double roundabout will be much more heavily loaded in the future when the bypass is completed all the way from the A4 at Pewsham to the A350 at Malmesbury roundabout.

It is vital for the sustainable future of Langley Burrell and Chippenham that any junction built on the B4069 is demonstrated to be future proofed against these developments. The application should not be approved until a design robust to anticipated traffic volumes has been proven.

9. Further denuding of tree screening

In its response posted 26th October 2017, LBPC noted:

The existing phases have already demolished a significant proportion of the trees and hedges which screen the site contributing to the substantial increase in pollution.

The response expressed concerns about plans in this application to fell yet more trees.

We also note the response to the consultation of WC's own Arboricultural Officer:

There will be tree loss and encroachment into root protection areas of trees to facilitate this proposal. The embankment shown in red states 'Dense Vegetation/brambles/Large trees' to be located in this area. Further details will need to be provided to identify the species of trees. A drawing will also need to be provided to show the position of all trees in relation to the proposal, indicating the ones to be removed in red. Please ensure that all trees are plotted with the correct canopy spread and root protection areas. Once this information is received, I will be able to give an informed response.

We therefore request that final approval should not be given unless and until the outstanding questions of the arboricultural officer have been satisfactorily addressed and a commitment has been made to establish a line of trees along the northern perimeter of the relocated link road (which is common practice when new bypass/distribution roads are constructed).

¹ "The revised junction arrangements and related haul road and B4069 specifications and details are now considered to be technically appropriate and acceptable from a highways perspective."

Other relevant factors:

10. Weak rationale for non-conformity with development plan

As noted on page 11 of the Report:

The NPPF is a material consideration of significant weight. At para 196 it identifies that where less than substantial harm is identified this harm should be weighed against the public benefits of the proposals. This requirement is reflected and further defined in relevant case law in particular the Barnwell and Forge Field High Court judgements. Here it is identified that great weight should be given to the statutory requirements to preserve heritage assets and that any harm that is caused requires very clear and convincing justification and that the public benefits of a scheme proposal must very clearly outweigh the harm. In making such assessment it is also necessary to consider if such benefits could be achieved in a different way that would not result in the harm that is identified.

Wiltshire Council (WC) recognizes that the proposal breaches its development plan and the Langley Burrell Neighbourhood Plan. However, it justifies this breach in terms of employment benefits. There is little or no evidence base cited for the supposed employment benefits:

The employment section of the application form (section 19) says simply “No Employment details were submitted for this application”.

The planning statement says:

6.1.8 In the context of these principal planning policies, the planning benefits of the proposed development are that it would improve the prospect of securing the Applicant company’s long-term presence in Chippenham, and therefore the longevity of the Principal Employment Area allocation in the Core Strategy, and would present an

However, given the substantial sums invested by Wavin in the site and its preference for Chippenham over Doncaster even though this planning application was not certain to be approved, the likelihood of Wavin reducing its presence now should be considered to be very low.

In short, WC is willing to trade the certain significant harm to the area for the low probability of small employment effects at some unspecified point in the future. This does not meet the “clear and convincing justification” test established by legal precedent.

Moreover, as noted on page 5 of the Report to the SPC (the Report), WC’s own spatial planning experts, in their response dated 10th January 2018 stated:

In our view, the current alignment and existing route, without any re-alignment, is fit for purpose.

Nonetheless residents of Langley Burrell and the Parish Council have acknowledged the operational advantages of relocating the link road and have not opposed the proposal absolutely.

Especially given the tenuous justification for over-riding the development plan, it is extremely disappointing that the recommendations of the WC planning department do not pay more attention to the concerns of local residents. We ask you to include them in your decision should you decide to approve the application.

11. Process irregularities

There are numerous process irregularities regarding the progression of this application.

First, the email from Bethany Mitchell (see below) cites 19th April 2018 as the deadline for responses to the 3rd variant of the application.

However, numerous key documents providing vital information about the scheme were received and/or posted later than this. These include:

- Seven documents providing vital highways information about the new configuration of the “double roundabout”
- A document from Wessex Ecology Consultancy on behalf of the applicant posted 23rd April 2018 responding to questions from WC about bats
- A document from Connect one Heritage and Archeology on behalf of the applicant posted on 23rd April and which purports to provide a rebuttal to concerns raised by Historic England.

It is a condition of the draft planning approval that the development should be carried out in accordance with some of these documents. Moreover, the website is the only source of information for consultees and respondents. For both these reasons, this information should have been available to them at least two weeks **BEFORE** the closing date for comments.

Second, it is a condition of the draft planning approval that the development is carried out in accordance with the following documents:

- Ecological Assessment and Surveys Received ...09 July 2018
- Arboricultural Impact Assessment – D14 267 08 Rev A
Arboricultural Constraints Report – D14 267 07
Drawing AIA Plan – D14 267 P5
All Received 09 August 2018

Not only were all of these documents received after the deadline for comments, but none of them are on the webpage so are unavailable to consultees and respondents.

Third, there are several letters from Historic England posted on the webpage. Some of these refer to the original advice provided by Historic England to WC in November 2017. However, that advice is not on the webpage.

Given that Heritage Impacts are at the core of the planning consideration of this application, other consultees and members of the planning committee are denied crucial access to authoritative advice on the consideration of the proposal in view of the acknowledged harm to a listed asset. It is a serious omission.

Fourth, page 6 of the Report states:

In addition it should also be noted that the applicant team for the Rawlings Green Development has submitted multiple representations of objection to the scheme proposals.

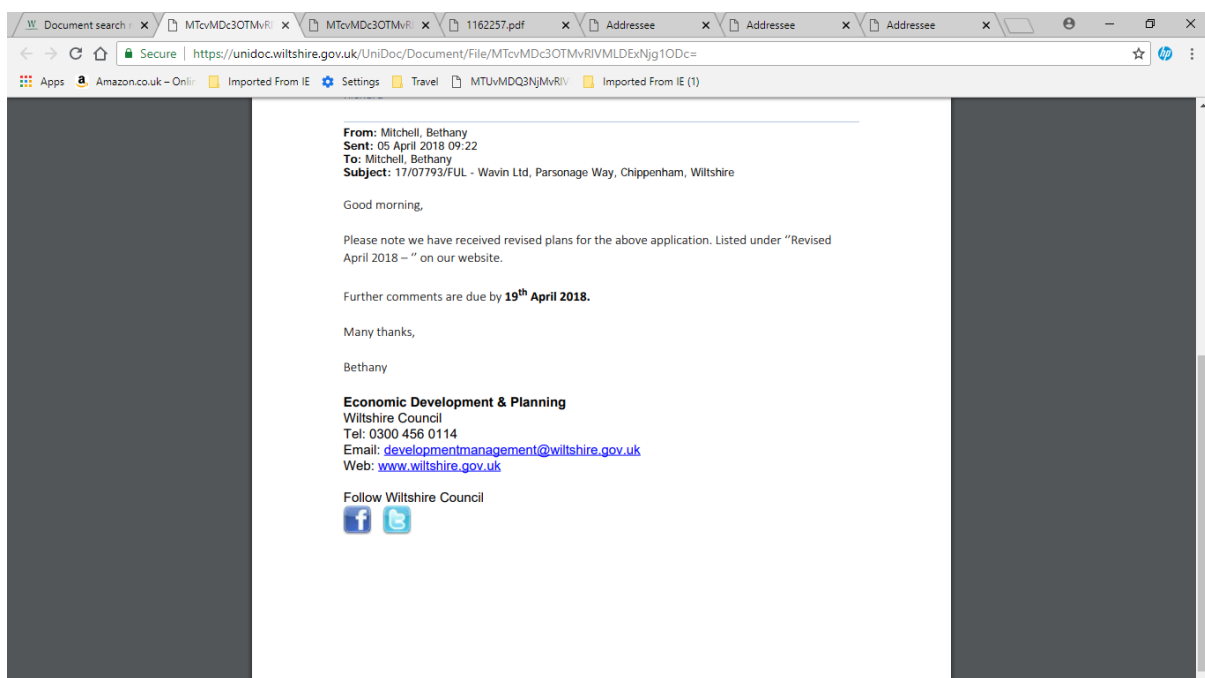
However, there is only one representation from the Rawlings Green developer (a key player in this decision) on the webpage, posted 31st May 2018. The lack of transparency regarding the views of this key player has put other commentators at a disadvantage in formulating their own responses.

Fifth, there are material errors in the report to the Strategic Planning Committee:

- It repeatedly (5 times) refers to the roundabout system on the B4069 being “gyratory”, despite this being the November 2017 variant of the proposal and the April version on which the committee is being asked to opine is a double roundabout.
- Statements in section 3 (Site description) contradict statements in section 9 regarding rights of way.

The strategic planning committee, consultees and respondents have a legitimate expectation that they are being asked to comment or decide on full and accurate information. There is a strong case that the determination of the case should be deferred until these multiple errors and omissions have been remedied and respondents have had adequate opportunity to comment.

A decision made on incomplete and inaccurate information is unsafe.



Email showing deadline for comments

12. Conclusion

There are numerous process failings which point to a deferral of this decision until they have been rectified. In addition, the case for over-ruling heritage considerations and ignoring the development plan is at best flimsy. However, we recognize the operational arguments for a scheme of this nature and have no wish to see unnecessary delay. But, in the circumstances, we would expect, as a minimum, the committee to address our concerns regarding:

1. The extension of the bund along the entire northern perimeter of the site
2. The planting of a tree screen along the entire northern perimeter of the site
3. The establishment of pelican or zebra crossings instead of uncontrolled crossings
4. Consistent with the requirements of the CSAP inspector, demonstrating the design of the double roundabout is future-proofed against likely traffic flows once the bypass is completed between the A4 and the A350 ie it satisfies his "equivalent measures" test.
5. Taking steps to ensure that there is proper planning co-ordination for the construction of the three interacting schemes:
 - North Chippenham
 - Wavin haul road and roundabouts
 - Rawlings Green railway bridge (and subsequent site development)

The above requirements are all consistent with WC Core Policies, recommendations of Wavins's own advisers for the planning application, good planning practice or some combination of the three.

Yours sincerely

Langley Burrell Parish Council

Langley Burrell Residents Association