

<b>Date of Meeting</b>	07 November 2019
<b>Application Number</b>	19/06982/VAR
<b>Site Address</b>	River Mead House, Church Hill, West Overton, Lockeridge SN8 4EL
<b>Proposal</b>	Removal of conditions 3, 7 and 8 of 19/02445/FUL (proposed erection of a building for the storage of agricultural machinery in connection with a farm contracting business (B8 Use)).
<b>Applicant</b>	Mr James Sheppard
<b>Town/Parish Council</b>	FYFIELD & WEST OVERTON
<b>Electoral Division</b>	West Selkley (Cllr Davies)
<b>Grid Ref</b>	414262 167858
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Ruaridh O'Donoghue

### Reason for the application being considered by Committee

The application is made by a Unitary Councillor; the scheme of delegation does not allow applications made by such persons to be dealt with under delegated powers when objections have been lodged against them.

#### 1. Purpose of Report

The purpose of the report is to assess the merits of the proposal against the policies of the development plan and other material considerations and to consider the recommendation that the application be approved.

#### 2. Report Summary

The main issues to be considered are:

- Will the removal of the required visibility splays set out in condition 3 of 19/02445/FUL still allow for a safe and suitable means of access to serve the development (CP 61)?

#### 3. Site Description

The application concerns land at Rivermead House in Lockeridge, near Marlborough. The site is adjoined to the east by a residential property known as Gypsy Furlong, and to the west, by the Kennet Valley Hall. Paddock land lies to the north, with the road and agricultural fields lying to the south.

The site is located outside of the main built-up area of the village of Lockeridge in a small area of ribbon development that sits to the west of the settlement. It is considered to be open countryside.

The site and its surroundings lie within the North Wessex Downs AONB. There are no other notable planning constraints pertaining to the site.

Below is a location map with photographs that show the context of the site.





**View from the front of the site looking north-west**



**View from the front of the site looking north**





**View from the front of the site looking north-east**



**View from the front of the site looking east**





**View of the lane outside application site looking west**

**© Google**



**View of the lane outside application site looking east**

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#### **4. The Proposal**

The application proposes the removal of conditions 3, 7 and 8 of 19/02445/FUL (proposed erection of a building for the storage of agricultural machinery in connection with a farm contracting business (B8 Use)).

Below are the proposed plans and elevations of the scheme.



Site Plan

## 5. Local Planning Policy

Wiltshire Core Strategy 2015 (WCS):

- CP 14 – Marlborough Community Area Strategy
- CP 34 – Additional Employment Land
- CP 51 – Landscape
- CP 57 – Ensuring High Quality Design and Place Shaping
- CP 61 – Transport and New Development

## National Planning Policy Framework 2019 (NPPF)

Section 85 of the Countryside and Rights of Way Act 2000: requires the Local Planning Authority to 'have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty'.

## Wiltshire Landscape Character Assessment (2005)

### **6. Relevant Planning History**

- **17/05511/FUL** – Proposed gated access into field – Approved with conditions
- **19/02445/FUL** – Proposed erection of a building for the storage of agricultural machinery in connection with a farm contracting business (B8 Use) – Approved with conditions

### **7. Summary of consultation responses**

#### Fyfield and West Overton Parish Council

The Council has no objection to the proposal to vary condition 3. This would secure the future of a valuable tree, and the Council notes that the advice of the Highways Authority is that there would be no unacceptable effect on traffic. Additionally, the Council suggests that Wiltshire Council considers requiring the lopping of branches of trees on the application site to a height which will improve visibility; and possible relocation of the access.

#### Wiltshire Council Highways

Manual for Streets 1 refers to the x and y distances required for visibility splays.

It is very flexible in its approach in regard to both; it also states that the dimensions and references are guidance and that Highway Officers are actively encouraged to use their judgement and expertise to apply splays.

The guidance suggests that the Y distances are based upon the SSD (Standard stopping distances) but a reduction to this distance does not automatically lead to a danger to road users and as such flexibility can be and should be applied: Point 10.5.9

In this application, it is the Highway Officer's position that a splay of 2.4m (to accommodate the larger vehicle) and a Y splay of as close to 43m (the distance associated with 30mph limits) is acceptable and that given the rural nature of the road, its width and the vehicular use of the road network, a reduced splay is still safe and acceptable. The ability to reduce the splay can also accommodate the stepping out of the Y distance by 1m into the carriageway. This can be applied to roads where overtaking is unlikely and pedestrians/cyclists are likely to be more centrally located due to hedgerow and worn edging. Manual for Streets 2 also allows for the Y splay to be taken to the centre carriageway to the left in these situations, however it is also common practice in Wiltshire to apply this allowance to both sides when officers believe that road conditions mean that by doing so there is not a negative impact to the safety of the road users.



Based on the revised visibility splay plan submitted, the Highways Officer has stated that they are *“willing to accept the amended drawing showing the 40.7m to 1 m out into the Carriageway. This secures an acceptable level of visibility for the proposed use.”*

### CPRE

The proposals offered to fulfil conditions 3 and 8 in this application are inadequate.

#### Condition 3

The absurdity of the implication that provision of 10m of extra visibility splay in one direction from the gateway might compensate for a shortfall of 10m in the opposite direction beggar's belief. We note that the same condition (43m in both directions from the gateway: REF MfS 30mph)) was/is a condition on permission for application 17/05511/FUL, so implementation of that permission also should not be allowed, REASON: in the interests of highway safety.

#### Condition 8

Neither the vague statement of landscaping proposals in the plans submitted with application 19/02445/FUL (D&AS 5.7), nor the brief details in the (red) responses to condition 8 in the plan and supporting statement showing where planting will take place and details thereof attached to this application provides the scope of details called for in condition 8: a) a detailed planting specification showing all plant species, supply and planting sizes and planting densities; b) finished levels and contours; c) all hard and soft surfacing materials. They should therefore not be accepted as discharging that condition, REASON: to ensure a satisfactory landscaped setting for the development in the interests of preserving the landscape character and scenic qualities of the AONB.

## **8. Publicity**

The application was advertised by way of a site notice and neighbour notification letters. As a result of this exercise, around 10 letters of objections have been received. The principal comments put forward are highlighted below:

- Surely your statutory checks on materials, landscaping together with entrance access, are what one would expect to ensure the detailed plans are carried out as agreed.
- Rather than healing tensions and building bridges with the local community this request is likely to engender feelings of mistrust.
- Object to variation 3 on the grounds of road safety
- To reduce the visibility by 10 metres is totally unacceptable. Added to this, the driver height is between 2.9 metres and 3.2 metres above ground. From this height, 2.4 metres back from the highway visibility will be far less than 10 metres stated. At this height you are looking or trying to look through the trees' canopy.
- This road is used as a rat run from Church Hill West Overton to Lockeridge and beyond. And ignore the speed limit of 30mph because everybody else seems to ignore it.
- If the safety splays on visibility are ignored after the death of George Punton who was only walking his dog, do we just wait for another fatal accident?



- It is even more sad that the residents opposing the original application knew the visibility was impossible on safety grounds, but as usual were just ignored
- No particular objection to the discharge of conditions 7 & 8 of application 19/02445/FUL requested within this new application (19/06982/VAR), although I cannot for the life of me work out why these were not requested via the more appropriate means of a Discharge of Conditions application, as advised in the Notification of Full Planning, provided when permission for 19/02445/FUL was granted!
- Very strong objections to the attempt to remove Condition 3 of application 19/02445/FUL
- The applicant appears to be creating an invidious situation wherein, if he is to meet the requirements of Condition 3 of planning application 19/02445/ FUL, he is going to seek to have trees chopped down, citing the need for appropriate visibility to fulfil highway safety requirements, or he gains approval for his application to vary Condition 3 (19/06982/VAR) thus compromising road safety.
- The concluding statement in the supporting statement should be challenged immediately and the application should be refused.
- The applicant should have carried out his own due diligence before putting in the original planning application 19/02445/FUL and realised that the trees would impact upon the visibility splays.
- Work on the site commenced on 30th July so condition 3 has already been abused.
- Condition 3 was imposed for good highway safety reasons at a place where a serious accident has happened.
- The preservation of the large trees along the highway is important; they are a feature of the AONB.
- The fact that this is the only condition the highways agency felt able to apply, it is important that it be maintained.
- Whilst the proposed construction materials would appear to be in keeping with the original application, they are not in keeping with those structures in the immediate vicinity. For this reason, there should be extra emphasis on the need for effective landscaping in order to mitigate the visual impact of such a large utilitarian structure.
- The proposed landscaping would appear rather minimalist and totally inadequate if the aim is to reduce the visual impact of the new building.
- Highway safety must remain a priority and if the building really has to be of such a utilitarian appearance then the landscaping must surely be more substantial.
- The required splays have not been provided so one must assume that the current work is in contravention of planning law and all work must be stopped. Or perhaps the applicant, who just happens to be a prominent member of the Council, is able to make certain assumptions about planning processes as a result of his privileged position?
- The applicant does not seem bothered about accuracy in his applications given that he identifies “historic oaks” as being within the hedgerow outside his own property, rather than the two limes (with TPOs) and the two horse chestnut trees, all of which were clearly identified in the application 17/05511/FUL!

- The Manual for Streets (Section 7, pp. 90-93) clearly describes the reasons for the provision of visibility splays.
- Whilst the speed limit on the road in question is 30 mph, it is possible that some vehicles may be traveling at greater speed than this, and that therefore the required visibility distance of 43m represents the minimum needed.
- Vehicles are likely to be travelling greater than 30 to the west having just exited a national speed limit zone – this is where the applicants is seeking to reduce the visibility splay to just 33m.
- If acceptable, the discharge of condition 3 should not be approved until a site visit has been made, and the necessary measurements confirmed by a suitably qualified representative of the Planning and/or Highways department.
- Should any decision be taken to permit a relaxation of the very clear regulations described in the Manual for Streets, and reflected in Condition 3, it should be expected that a detailed explanation of why such a decision was acceptable and how the highway risks that such regulations seek to minimise would otherwise be mitigated to acceptable levels.
- The whole attitude of ‘it is only a tree’ is appalling.
- Questions have to be asked about the original planning committee as they passed a building when in 2017 highways expressed concerns about the original entrance to this land.
- Are the committee qualified on planning matters or like me as a parish councillor just have the basic knowledge?
- Surely this fact needs to be addressed and the applicant enforced to halt development before this new application (19/06982/VAR) is processed in its due manner?
- The TPOs, historic trees and hedgerow should all have been considered first, not after!
- The proposed picture (in Wooley & Wallis’ supporting statement) looks very much like what has already been installed therefore a clear piece of evidence that building began before these conditions were acted upon.

## 9. Planning Considerations

### Principle of Development

This issue remains as assessed under 19/02445/FUL and accepted by the Eastern Area Planning Committee on the 23<sup>rd</sup> May 2019.

### Design / Visual Impact

This issue remains as assessed under 19/02445/FUL and accepted by the Eastern Area Planning Committee on the 23<sup>rd</sup> May 2019.

However, as part of this submission the exact materials to be used in the construction of the proposed building have been specified. These materials are in prevalent use across many new agricultural buildings within the wider AONB. There are no objections to their use on this building. Therefore, there is no longer a requirement to impose condition 7 in the manner set out under 19/02445/FUL. Instead, it can be varied to ensure development is carried out in accordance with these approved materials unless further

materials are agreed with the local planning authority in writing (which does seem unlikely given the building is almost complete).

In addition to this, landscaping details have been submitted in a bid to address the requirements of condition 8 that was attached to 19/02445/FUL. These include planting densities and species for the hedges that are proposed. This level of landscaping is considered to be appropriate for the amount of development proposed, with sufficient detail to meet what the condition was seeking to achieve. As such, the requirement to submit further landscaping details is no longer necessary through the imposition of a planning condition. Therefore, condition 8 attached to the original consent can be removed. Condition 9 of the original consent will remain to ensure the submitted landscaping details are carried out and maintained for a reasonable period of time (i.e. 5 years).

#### Neighbour Amenity

This issue remains as assessed under 19/02445/FUL and accepted by the Eastern Area Planning Committee on the 23<sup>rd</sup> May 2019.

#### Highways Safety / Parking

Under 19/02445/FUL, the proposed access onto Overton Road was considered safe and suitable by the Local Highway Authority (LHA) subject to conditions which required the following:

- that visibility splays are to be provided;
- that the access is to be consolidated over the first 15 metres;
- that gates are set back 15 metres from the carriageway edge; and
- that the first 15 metres of the access is a minimum width of 5 metres.

Since this application was granted permission, the applicants have confirmed that they cannot comply with the requirements of condition 3 as there is a TPO'd tree in the way which restricts visibility. As such, it has been necessary to look at what visibility can be achieved and whether or not this would still allow for a safe and suitable means of access from the development site.

Manual for Streets (MfS) 1 and 2 refers to new and existing residential streets within urban areas and therefore, is not strictly applicable to a rural lane such as this. That said, for the purposes of this application, MfS guidance has been referred to as the most relevant and appropriate guidance for this site as the street does contain some street lighting and residential properties along it. The Design Manual for Roads and Bridges would not be appropriate guidance to use here as it refers to motorways and trunk roads only.

MfS states that a visibility splay of 2.4m (X distance) x 43m (Y distance) is appropriate to secure a safe and suitable means of access onto a 30mph road. However, MfS 2 states the following at paragraph 10.5.9:



*“The Y distance should be based on the recommended SSD values. However, based on the research referred to above, unless there is local evidence to the contrary, a reduction in the visibility below recommended levels will not necessarily lead to a significant problem.”*

It is clear, therefore, that the 43m distance is recommended but that MfS allows the LHA flexibility to reduce these standards should it consider that in doing so there would be no prejudice to highway safety. It is the opinion of the LHA that, given the rural nature of the road, its width and the vehicular use of the road network, a reduced splay as close to the 43m as possible would still result in a safe and acceptable means of access onto this road i.e. would not prejudice highway safety.

Furthermore, on roads where overtaking is unlikely and where pedestrians/cyclists are likely to be more centrally located due to hedgerows and worn edging, the LHA are prepared to accept the stepping-out of the Y distance by 1m into the carriageway. MfS 2 also allows for the Y splay to be taken to the centre carriageway to the left in these situations, however it is also common practice in Wiltshire to apply this allowance to both sides when officers believe that road conditions mean that by doing so there is not going to be a negative impact to the safety of the road users. The road conditions here are such that the LHA has accepted that the Y distance can be stepped out by 1m into the carriageway.

Based upon these acceptances, the applicants have submitted a revised visibility splay plan. This shows that with an X distance of 2.4m, the Y distance that can be achieved is 40.7m. The LHA accept that this distance would still result in a safe and suitable means of access to serve the development; it is after all, only a couple of metres short of the recommended distance.

What is more, a Y distance of 43m can be achieved stepping out 1m into the carriageway if a very small section of third-party land is incorporated into the splay. Whilst this cannot be officially regarded, as visibility splays cannot incorporate third party land, it is noted that due to the presence of the village sign, bus stop and lay-by at Kennet Valley Hall, this small parcel of land is unlikely to be built upon. In reality therefore, it is likely that the 43m of visibility would be available for use.

In summary, as there are no objections from the LHA, officers consider it acceptable to allow the variation of condition 3 to reflect the actual visibility that can be achieved, with an allowance of stepping the Y distance 1m into the carriageway i.e. a distance of 2.4 x 40.7m, and that such a distance can be conditioned accordingly to be maintained in perpetuity.

#### Issues Raised by Third Parties

It is noted that development has commenced on site in breach of the requirements of condition 3. Whilst this has been logged with the Council's Planning Enforcement Team, no action has currently been taken due to the existence of this application. Should the committee reach a decision contrary to the Case Officer's recommendation, then the case would be referred back to the enforcement officer. However, the fact that this is a retrospective application should have no bearing on the decision made i.e. retrospective

applications should be considered in the normal way as set out at Paragraph 12 (Reference ID: 17b-012-20140306) of the Planning Practice Guidance.

## **10. Conclusion (The Planning Balance)**

The LHA have accepted that the visibility splays that can be achieved at the site and confirmed that although not the 43m set out in MfS, a safe and suitable means of access can still be attained. A reduction in the standards by a couple of metres would, in the opinion of officers, be difficult to defend at appeal.

Officers consider that the details submitted in respect of landscaping and materials are sufficient. No further details need be requested via condition on these matters. As such, it is also recommended that conditions 7 and 8 be varied to reflect the details submitted with this application.

## **RECOMMENDATION**

Approve with conditions

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

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

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans and documents:
  - Application Form
  - Block Plan 1:1000

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

- 3 No part of the development shall be brought into use, until the visibility splays shown on the approved plans have been provided with no obstruction to visibility at or above a height of 900mm above the nearside carriageway level. The visibility splays shall be maintained free of obstruction at all times thereafter.

REASON: In the interests of highway safety.

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

REASON: In the interests of highway safety.

- 5 Any gates shall be set back 15 metres from the edge of the carriageway, such gates to open inwards only.

REASON: In the interests of highway safety and to allow for agricultural use.

- 6 The development hereby permitted shall not be first brought into use until the access has been increased in width to 5 metres over the first 15 metres from the C202 carriageway edge with the provision of a radii of 3 metres to both sides of the access.

REASON: In the interests of highway safety.

- 7 The development shall be carried out in accordance with the approved materials outlined in the Supporting Statement by Woolley & Wallis dated July 2019 unless otherwise agreed in writing by the Local Planning Authority.

REASON: In the interests of visual amenity and the character and appearance of the area which is within the AONB.

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

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

- 9 The site shall be used for an agricultural contracting business and for no other purpose (including any other purpose in Class B8 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provisions equivalent to that class in any statutory instrument revoking or re-enacting that Order with or without modification). Furthermore, the provisions for change of use under the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification) cannot be undertaken.

REASON: The proposed use is acceptable, but the Local Planning Authority wish to consider any future proposal for a change of use having regard to the circumstances of the case.

- 10 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), there shall be no additions / extensions / external alterations to any building forming part of the development hereby permitted and no plant or machinery shall be installed outside any such building on the site on the approved plans.

REASON: In the interests of the amenity of the area and to enable the Local Planning Authority to consider individually whether planning permission should be granted for additions/extensions or external alterations, or the installation of any outdoor plant/machinery.

- 11 No external lighting shall be installed on site until plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage in accordance with the



appropriate Environmental Zone standards set out by the Institute of Lighting Engineers in their publication "Guidance Notes for the Reduction of Obtrusive Light" (ILE, 2005)", have been submitted to and approved in writing by the Local Planning Authority. The approved lighting shall be installed and shall be maintained in accordance with the approved details and no additional external lighting shall be installed.

REASON: In the interests of the amenities of the area and to minimise unnecessary light spillage above and outside the development site in the interest of maintaining dark skies within the AONB.

**INFORMATIVE TO APPLICANT:**

The proposal includes alteration to the public highway and the consent hereby granted shall not be construed as authority to carry out works on the highway. The applicant is advised that a license may be required from Wiltshire's Highway Authority before any works are carried out on any footway, footpath, carriageway, verge or other land forming part of the highway. Please contact the vehicle access team on telephone 01225 713352 or email [vehicleaccess@wiltshire.gov.uk](mailto:vehicleaccess@wiltshire.gov.uk) for further details.