

# REPORT TO THE WESTERN AREA PLANNING COMMITTEE

<b>Date of Meeting</b>	04.05.2011		
<b>Application Number</b>	W/11/00490/FUL		
<b>Site Address</b>	Land At Turleigh Farm Green Lane Turleigh Wiltshire		
<b>Proposal</b>	Construction of earth shelter dwelling		
<b>Applicant</b>	Mr Graham Jenkins		
<b>Town/Parish Council</b>	Winsley		
<b>Electoral Division</b>	Winsley And Westwood	<b>Unitary Member:</b>	Linda Conley
<b>Grid Ref</b>	380562 160443		
<b>Type of application</b>	Full Plan		
<b>Case Officer</b>	Mr James Taylor	01225 770344 Ext 15169 james.taylor@wiltshire.gov.uk	

## Reason for the application being considered by Committee

Councillor Linda Conley has requested that this item be determined by Committee due to:

\* "In line with the need for open scrutiny and debate I wish to call this unusual and innovative application forward to the Planning Committee".

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## 1. Purpose of Report

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

Neighbourhood Responses:

10 letters of objection (including from 7 from various residents of the adjacent Turleigh Villa) and 1 petition.

4 letters of support.

Parish/Town Council Response

Winsley Parish Council objects.

## 2. Report Summary

The main issues to consider are:

- \* Planning history;
- \* Planning policy, including PPS7;
- \* Impact on the openness of the green belt;
- \* Impact on the nationally important landscape of the AONB;
- \* Impact on neighbouring amenity;
- \* Impact on highway safety;

- \* Impact on archaeology;
- \* Impact on ecology; and
- \* Impact on the adjacent listed building's setting and the conservation area's character and appearance.

Section 66 of the Planning (Listed building and Conservation area) Act 1990 states that the local planning authority has a duty to pay special attention to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Section 72 of the Planning (Listed building and Conservation area) Act 1990 states that the local planning authority has a duty to pay special attention to the desirability of preserving and enhancing the character or appearance of the conservation area.

### **3. Site Description**

The application site is a parcel of land approximately 0.02 hectares in size with a lawful agricultural use. The site slopes significantly from the north west down to the south east.

To the north, south and east are residential properties, including listed buildings. The application site is located within a designated conservation area. The immediate environs may be described as a fringe of village location.

Access to the site is obtained from the end of an unclassified highway which continues as a public right of way only beyond the application site. The terminus of the highway is the meeting point with another right of way which runs away to the north.

The application site is within a designated Scheduled Monument Record (SMR), and an area of Site of Nature Conservation Interest (SNCI), as well as the Green Belt and an Area of Outstanding Natural Beauty.

### **4. Relevant Planning History**

00/00173/OUT – Dwelling – Refused on 06.04.2000 (appeal dismissed on 17.10.2000)

01/00017/OUT – Dwelling – Refused on 05.04.2001

### **5. Proposal**

This is a full planning application for the erection of a dwelling and associated works. The dwelling has been detailed as an “earth shelter” dwelling, a partially subterranean dwelling with a circular floorplan to facilitate 3 en-suite bedrooms around a central and open plan dining, living and kitchen area. Also detailed within the scheme would be storage, entrance lobby and drying area/escape void. Natural light would be obtained from a roof lantern in the centre of the green roof and the largely glazed eastern elevation.

In addition the proposals detail between the dwelling and the access, a partially subterranean garage building with parking for 2 cars, garden store, and a bin and cycle storage.

Ancillary development beyond the above is detailed as a solar PV for electricity, geothermal array, reed beds, feeding into a lake and landscaping.

The application has been submitted with the usual detailed plans and a design and access statement. This details the intention to be a sustainable project and the “first, earth sheltered Passive House in the UK”. Carbon off-setting would be used to make this a carbon zero development.

### **6. Planning Policy**

West Wiltshire District Plan 1st Alteration (2004)

C1 Countryside Protection

C2 Areas of Outstanding Natural Beauty

C6 Areas of high Ecological Value (AHEVs), Regionally Important Geological or Geomorphological Sites (RIGs), and Sites of Nature Conservation Interest (SNCIs)

C17 Conservation Areas

C18 New Development in Conservation Areas

C31a Design

C32 Landscaping

C38 Nuisance

H19 Development in Open Countryside

T12 Footpaths and Bridleways

U1a Foul Water Disposal

U2 Surface Water Disposal

National guidance

PPS1: Delivering Sustainable Development

PPS1a: Planning and Climate Change

PPG2: Green Belts

PPS3: Housing

PPS5: Planning for the Historic Environment

PPS7: Sustainable Development in Rural Areas

PPS9: Biodiversity and Geological Conservation

PPG13: Transport

PPS22: Renewable Energy

PPS23: Planning and Pollution Control

## **7. Consultations**

### Winsley Parish Council

Objection:

"1. Winsley Parish Council believes this proposal must be determined strictly in accordance with the policies in place for the location.

2. The Council is aware of the previous policy-based refusals and the dismissed appeal, preventing development of the site for domestic use.

3. The highways objections remain.

4. The location of this proposal does not seem to satisfy criteria for which PPS7 section 11 could allow an exception for an isolated new house. This would not be an isolated new house within the purpose and meaning in PPS7.

5. The Council is aware that the application has been called in for determination by the Planning Committee where these matters can be rigorously and openly examined, with attention to the local knowledge contributed by many, including observers of previous activity at the site."

### Wessex Water

No objection.

### Libraries and Heritage

No objection subject to conditions.

"The Wiltshire Historic Environment Record (HER) notes the presence of strip lynchets – relics of a medieval field system – surviving here, possibly from the Saxon period, with one large example running through the proposed development area. These earthworks could be the "contour features" referred to in the supporting Design and Access Statement (Bolingbroke Design, 2011:1).

Given the relative significance of these heritage assets, and in line with PPS5, I would recommend that the earthworks are considered for an earthwork survey. This should be undertaken by a suitably qualified archaeologist, and should be carried out before any works begin. It might also be possible

that the survey can be repeated after reinstatement of the land following completion of the proposed construction works.”

### Highways

Initially raised an objection on the following grounds: (01 March 2011):

“The site is located off of Green lane; Green Lane is of single width with no passing places. The access point to the site is at an acute angle to Green Lane, this restricts visibility for vehicles exiting the site. The site has previously been subject to planning applications (both refused, one dismissed at appeal and the latter was refused on a highway recommendation of sustainability grounds). On the basis of the above, I recommend that this application be refused on highway grounds for the following reasons:

- 1) The proposal, located remote from services, employment opportunities and being unlikely to be well served by public transport, is contrary to the key aims of PPG13 which seeks to reduce growth in the length and number of motorised journeys.
- 2) The site has insufficient frontage to enable an access to be satisfactorily laid out incorporating the necessary visibility splays which are essential in the interests of highway safety.
- 3) Green Lane by reason of its restricted width is considered unsuitable to serve as a means of access to the proposed development.”

Subsequently amended the comments as follows: (5 April 2011):

“The previous application W00/0173 for a proposed dwelling at the site was refused and dismissed at appeal. The Highway Officer did not offer a refusal reason and the Inspector did not dismiss the appeal on Highway Grounds.

Application W01/0017 was refused by the Highway Officer on sustainability grounds, no other refusal ground was issued by the Highway Officer.

On the basis of the above it is difficult for me to substantiate a refusal reason due to insufficient visibility at the site access and the restrictive width of Green Lane. Therefore I would like to omit the second and third refusal reason of my Highway Recommendations correspondence dated 01 March 2011.

However, the site is located outside the Village Policy Limit of Winsley as illustrated in West Wiltshire’s Local Development Framework 2004. Therefore, I maintain my objection regarding the ‘site being located remote from services, employment opportunities and being unlikely to be well served by public transport, is contrary to the key aims of Planning Policy Guidance Note 13 which seeks to reduce growth in the length and number of motorised journeys.”

### Ecology

Objection.

“The Wiltshire & Swindon Biological Records Centre holds records for badgers and reptiles in the area, and this unmanaged plot of land may offer opportunities for these species. I recommend that an Ecological Appraisal of the site is conducted by a suitably qualified ecologist to determine the potential for / presence of protected species. This can be undertaken at any time of year. A report of the survey should be submitted to the LPA prior to a decision being made on the application. If further surveys are deemed necessary, these should be undertaken at the appropriate time of year and any recommended mitigation should be incorporated into the plans.”

### Rights of Way Officer

No comments received.

### Conservation Officer

Objects to the proposal.

## **8. Publicity**

The application was advertised by site notice, press notice and neighbour notification.

Expiry date: 18 March 2011

10 letters of objection (including 7 from various residents of the adjacent Turleigh Villa) and 1 petition.  
Summary of points raised:

- \* Construction of new dwellings in the green belt is not allowed as its inappropriate development;
- \* Very species circumstances do not exist to justify the scheme in the green belt;
- \* Proposals are not in keeping with the conservation area;
- \* Located within an area of outstanding natural beauty where priority should be given to landscape over other considerations;
- \* Located within a site of special scientific interest;
- \* Could set a precedent that would endanger the charm and character of the village;
- \* Whilst an improvement over and above the previous applications, the proposals would be harmful in terms of landscaping;
- \* Concern over construction phase, in particular movement of spoil and the highway implications;
- \* Damage has already occurred to potential archaeological features, proposals would exacerbate the issue;
- \* Potential damage to underground watercourse;
- \* Access is unsafe and driveway a visual intrusion;
- \* Inaccurate plans and misrepresentations over presence of other buildings, parking levels, use of land, proximity to water courses, public views, presence of trees, potential for nature conservation interests/protect species and whether work has commenced;
- \* Scheme conflicts with the special character of the area, however disguised.
- \* Proposals do not satisfy the PPS7 paragraph 11 test;
- \* Harmful impact to neighbouring amenity with over looking;
- \* Boundary treatments that may be required are likely to be intrusive;
- \* If mindful to approve then this proposal must be advertised as an exception to the development plan;
- \* Proposal does not make use of natural depressions, they have been created by the landowner in the last 10-15 years without any consent;
- \* Harm to drinking water at local well and inappropriate means of sewerage disposal;
- \* Failed to complete the application in block capitals, if they cannot get that right then what hope of anything else;
- \* The adjacent reconstructed stone building was probably state of the art when constructed, now it is the ugliest building in Turleigh; and
- \* Fee is too low and should be higher to deter such applications and supplement the Council's coffers;

4 letters of support. Summary of points raised:

- \* Pleased to hear of the proposal as it has been so hard to get any experimental eco-architecture going;
- \* Underground and use of environmentally friendly methods for construction are the way ahead – forward looking and well thought out architecture;
- \* Unique and innovative design, which is quite outstanding, a blueprint for other schemes;
- \* Sustainable construction supplemented by use of ground source heating, solar heating and rainwater capture;
- \* The design must be acknowledged as mitigating any encroachment in terms of green belt, AONB and conservation area designations;
- \* Ideal location close to railway station and on wasted land within the village;
- \* Escalating fuel prices and heating costs means that not to back this 100% would be insanity and downright incompetence; and
- \* Nimbyism is inevitable but hopes that planners can rise above it.

## **9. Planning Considerations**

Green belt

PPG2 details at paragraphs 3.1 to 3.3 that the general policies controlling development in the countryside apply with equal force in the green belt but in addition there is a general presumption

against inappropriate development except in very special circumstances. Inappropriate development in the green belt is by definition harmful.

Paragraph 3.4 deals with new buildings in the green belt and defines that they are inappropriate unless it is for one of five set exceptions, which includes the "limited infilling in existing villages (under the circumstances described in the box following paragraph 2.11)". This clearly states that if it is proposed to allow no new building, the village should be included in the green belt; and if infilling only is proposed the village should be either included in the green belt and listed in the development plan or excluded from the green belt. Turleigh is within the green belt and has no village policy limit, therefore in accordance with PPG2 the policy intention for the area is to have no new building on sites such as this. To make any other conclusion the site would have to be specifically listed as suitable for infill and it is not. As such the application must be concluded to be inappropriate development and by definition harmful to the green belt. Although it is noted that policy GB2 of the local plan is not saved and therefore has no weight, the wording of it was formed in the context of PPG2 and it supports the above conclusion. Furthermore this conclusion is consistent with the planning history which has seen two refused applications, one of which went to an appeal and was dismissed and where the Inspector found that the erection of a dwelling on the site was inappropriate development and, by definition, harmful to the green belt.

In addition it is necessary to consider the implications of the development on the defining characteristics, principally the "openness" of the green belt. At present the site is open with no buildings on the site. It is accepted that the site has been subject to landscaping which has changed its character however this is far less of a human disturbance than is being proposed. The site would be substantially altered with the introduction of a dwelling, garaging, vehicular access, and associated landscaping including the introduction of reed beds and lake; and furthermore general domestic paraphernalia. All of which would have a substantial impact on the openness of the site, albeit it is acknowledged that the design details attempt to mitigate this with the use of semi-subterranean construction and green roofs. However after careful consideration it is not considered to nullify the impact of the proposals on the openness at this point, particularly as the buildings will be open to view from public vantage points within the village.

#### Housing in Open Countryside

The application site is located in open countryside on the fringes of the village of Turleigh which has no village policy limits. Therefore the appropriate housing policy of the local plan is Policy H19 which specifically excludes the principle of further housing development in such locations unless in connection with forestry or agriculture. No such justification is being presented in this case and therefore the proposals have to be deemed as contrary to Policy H19.

This is the basis of the remaining highway reason for refusal and has been described by them as an unsustainable location. Furthermore this has been the historic grounds for refusal of residential development on this parcel of land in 2000 and 2001.

However it is noted that the applicant is attempting to justify the development on the basis of an exemption detailed in paragraph 11 of national Planning Policy Statement 7: Sustainable Development in Rural Areas. This states that "very occasionally the exceptional quality and innovative nature of the design of a proposed, isolated new house may provide this special justification for granting planning permission. Such a design should be truly outstanding and ground breaking, for example, in its use of materials, methods of construction or its contribution to protecting and enhancing the environment, so helping to raise standards of design more generally in rural areas. The value of such a building will be found in its reflection of the highest standards in contemporary architecture, the significant enhancement of its immediate setting and its sensitivity to the defining characteristics of the local area".

The scheme (by the same architect) is very similar to a proposal brought to planning committee and refused in 2008 in Chapmanslade for a subterranean earth shelter dwelling. This was refused due to its location in open countryside, visual impact and drainage issues despite the attempted use of PPS7 as justification. The inspector at the subsequent appeal commented that "I consider that the architecture, materials and method of construction would all be of a very high standard, but in my assessment they fall some way short of being truly outstanding and ground-breaking as PPS7 paragraph 11 requires." Whilst the maxim that each case should be assessed on its own merits must

always be applied, the parallels in the design are striking and given that the attempted justification is virtually identical and that the inspector's decision is as recent as June 2009, then it is worthwhile making note of the inspector's views on that proposal.

Taking this particular case on its merits and applying the tests in PPS 7 para 11:

Is the development of "exceptional quality" / "truly outstanding"?

Whilst the plans do show a form of development that is good in quality making use of oak framing and interesting architectural ideas it is not assessed as being of an exceptional quality, as the inspector at Chapmanslade concluded.

Does the development have an "innovative nature" / "ground breaking for example, in its use of materials, methods of construction or its contribution to protecting and enhancing the environment"?

The proposal purports to be potentially the "first, earth sheltered Passive House in the UK".

Notwithstanding this claim there are known to be several earth shelter dwellings and all the technologies being combined are now generally quite established and not particularly innovative.

Furthermore it is noted that other more traditional architectural styles (and more easily replicated) can be employed and still satisfy rapidly advancing standards of sustainability through the Code of Sustainable Homes and Buildings for Life.

Would the proposal help "to raise standards of design more generally in rural areas"?

The proposal is not considered to be a scheme which can be easily replicated and as such it would not help raise design standards in rural areas.

Would the proposal result in a "reflection of the highest standards in contemporary architecture"?

Whilst the quality of the architecture proposed would not be criticised when taken in isolation, it is not considered that it represents the highest standards of contemporary architecture envisaged by this policy which is specifically to be applied very exceptionally.

Would the proposal result in a "the significant enhancement of its immediate setting"?

Although the proposal is designed so as to have a minimal impact on the area and to harmonise with the natural environment, it does not significantly enhance its setting. Albeit not pristine agricultural land, it is clearly an undeveloped site in planning terms and the proposals are not entirely successful in harmonising with the landscape, creating a domestic and built form appearance which would have a detrimental visual impact within the landscape.

Would the proposal be sensitive to the "defining characteristics of the local area"?

As this site is located within the green belt a defining characteristic is the openness. For the reasons detailed above it is not considered that the proposal would be acceptable in terms of openness. Furthermore the proposals would inevitably result in a built form intrusion into the countryside, visible from public viewpoints and would be of a very alien form in comparison to the typical architectural style of Turleigh. The scheme would be an intrusion on a generally undeveloped site.

It is therefore considered that the proposal does not meet the tests in PPS7.

Transport.

This is a significant issue in considering these proposals since the potential to be reliant on the private car for transport is a significant dent to the sustainability credentials of the scheme. It is noted that this site is located remote from services such as employment, education, leisure and recreation facilities; hence it has been deemed unsuitable for further housing development as an unsustainable location. Turleigh is not well served by facilities and generally it is necessary to visit the villages of Westwood and Winsley for basic facilities and then Bradford on Avon or Bath and Trowbridge for wider facilities. Although there is a limited rail service at Avoncliff Halt, it is considered that the site is likely to be principally reliant on the private car. Indeed the usual domestic provision has been provided of 2 car parking spaces, in this case within a garage. The highway officer has raised objection to this on sustainability grounds. Initially wider objections were made, however these have been removed during the application process in light of the planning history and in discussion with the applicant. On the basis of the highway officer comments and planning history it is hard to substantiate any grounds for refusal over the access or suitability of Green lane for further traffic.

## Landscape.

The proposed development would be visible from the opposite side of the valley and it is therefore considered to be a relatively prominent site. This area has been designated as having a nationally important landscape value, and as such has been designated as an Area of Outstanding Natural Beauty. PPS7 guides that AONBs should be afforded the highest level of protection and preservation of the landscape and scenic beauty should be given great weight in considering any proposals.

The proposal would have a design and form which would make use of the natural slope of the land and some existing hollows within the hillside. Furthermore it would have a green roof which would help it to harmonise with the landscape. However it would still have a significant adverse impact compared to the existing appearance. The building itself, which seeks to take advantage of views across the valley, is consequently clearly visible, with a significant amount of glazing which would be prominent. In addition the re-landscaping that would be required to form the reed bed and lake would be incongruous a form at this point as would the works to create a reasonably graded access. In addition there are the other trappings of a domestic life and ultimately the site would have a change of use to residential curtilage. All of the above would have a significant cumulative impact which would be demonstrably harmful to the landscape character at this point and as such contrary to policies C1 and C2 of the local plan.

## Conservation Area

The proposals are located within a designated Conservation Area and policy requires that this and its setting is preserved and enhanced by new development.

The planning history details that previous applications have been deemed to be harmful to the character and appearance of the Conservation Area. As summarised by a planning inspector in 2001 "in this case, the site is part of the open rural setting of the village which contributes to its particular character.....I consider that this site is no different to a number of others which contribute to the open character of this village. To allow it would set a precedent which, in my view, would undermine the objectives of the Council's policies which seek to protect the Conservation Area".

Whilst the local plan policy has moved on since those comments the thrust of these local policies and the national guidance remains that the character and appearance of the conservation area must be preserved and enhanced. In this case the character and appearance of the Turleigh conservation area is defined by its openness and spaciousness; and this site, cumulatively with other such sites in the settlement help create this character. To erode this would be harmful. The proposals would be prominent from the other side of the valley and would have an alien character compared to the established built form, in addition to eroding the one of the defining characteristics of the area, namely its open and spacious rural setting. Furthermore from close views there would be a change in character with the site becoming more domestic and moving away from its lawful agricultural status, harmful to the rural scene.

## Ecology and archaeology

Limited information has been submitted in regards to these two specialist issues. However it is noted that the specialist advice from the archaeologist details that their concerns may be addressed by condition under PPS5 guidance. However the ecologist has had to issue an objection on the basis that the site may be suitable habitat for protected species and as there is no information to assess this impact then in accordance with PPS9 and its accompanying circular the application should be recommended for refusal.

## Public rights of way.

Public rights of way would not be affected by the proposed development in terms of their route and as such no concerns exist.

## Groundwater Protection.

Due to the sustainable credentials of the proposals being capable of independent living then it is understood why mains drainage has not been explored. However the guidance contained in DETR Circular 03/99: Planning Requirements in respect of the Use of Non-Mains Sewerage incorporating Septic Tanks in New Development, Annex A, paragraphs 3, 4 and 6, and Policy U1a of the West Wiltshire District Plan 1st Alteration (2004) is clear. This states a direction to the use of mains sewerage where possible and in this case based on the Wessex Water information it is quite feasible. Therefore the means of waste water disposal presents grounds for refusal also. This conclusion is



compounded by the public consultation which raised concerns over potential pollution from the waste disposal system to nearby watercourses including wells.

#### Conclusion.

Whilst there is nothing wrong with the principle of earth shelter dwellings, they must be appropriately located with an acceptable landscape impact. This proposal demonstrably fails these tests. The development is fundamentally inappropriate in this location within the green belt and outside of any village policy limits. In addition the proposal would be harmful to the rural character of this nationally important landscape. Furthermore, and in light of the ecology officers comments then the scheme presents grounds for refusal on protected species matters. Finally the means of sewerage disposal is in conflict with national guidance as mains sewerage facilities are available; this matter is compounded by the concerns raised by local residents with connection to pollution of watercourses and a local well. In summary the scheme is unacceptable for a range of reasons and must be recommended for refusal. The special justification presented is not considered to be appropriate in this case and either way would not outweigh the demonstrable harm.

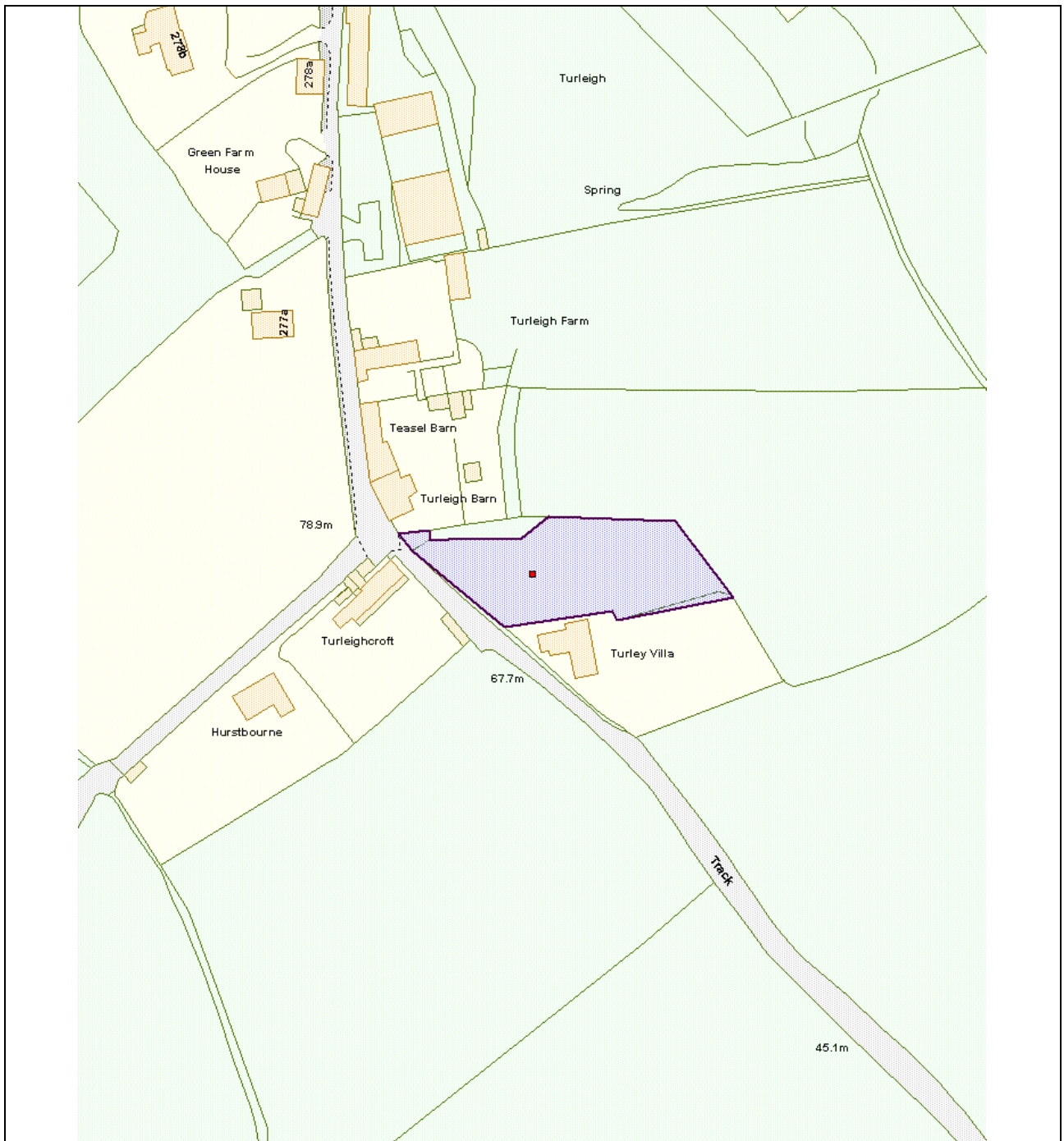
**Recommendation: Refusal**

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

- 1 The proposal by reason of its location in the green belt would be harmful by reason of inappropriateness and its intrusion into the openness of the green belt, contrary to Planning Policy Guidance 2: Green Belts.
- 2 The proposal by reason of its location in open countryside and without adequate justification is fundamentally unsustainable, contrary to Policy H19 of the West Wiltshire District Plan 1st Alteration (2004).
- 3 The proposal by reason of the change of use of a substantial area of land and the establishment of a dwelling in a visually prominent site with associated access and domestic paraphernalia would have an adverse impact on the appearance of the landscape of this part of the Area of Outstanding Natural Beauty and would conflict with policies C1 and C2 of the West Wiltshire District Plan 1st Alteration (2004).
- 4 The proposal by reason of its visual intrusion into the open and spacious rural character of the conservation area, and the change of use of a substantial area of land for the establishment of a dwelling with associated access, landscaping and domestic paraphernalia in a prominent position, would fail to preserve or enhance the open and spacious character and appearance of the conservation area contrary to policies C17 and C18 of the West Wiltshire District Plan 1st Alteration (2004).
- 5 The proposal by reason of the lack of evident investigation into the use of non-mains drainage and the inadequate information to ensure that groundwater sources are protected from the proposed means of foul water disposal, would be contrary to DETR Circular 03/99: Planning Requirement in respect of the Use of Non-Mains Sewerage incorporating Septic Tanks in New Development, Annexe A, paragraphs 3, 4 and 6, and Policy U4 of the West Wiltshire District Plan 1st Alteration (2004).
- 6 The proposal by reason of the inadequate information submitted in order to assess the potential impact on protected species is contrary to Planning Policy Statement 9: Biodiversity and Geological Conservation and its accompanying ODPM Circular 06/2005 Biodiversity and Geological Conservation – Statutory Obligations and their impact within the planning system, paragraph 99.

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



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