

<b>Date of Meeting</b>	29/04/2010
<b>Application Number</b>	E/09/0758/FUL
<b>Site Address</b>	Plot 1 Halstead Farm Kings Road Easterton Devizes Wilts SN10 4PS
<b>Proposal</b>	Erection of a 4 bed detached house, with attached garage, including all other associated works. (Amendment to K/57892/F).
<b>Applicant</b>	Danish Homes
<b>Town/Parish Council</b>	EASTERTON
<b>Grid Ref</b>	402065 155182
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Rachel Yeomans

### Reason for the application being considered by Committee

This application has been called to Committee at the request of the Ward Member, Councillor Grundy.

### 1. Purpose of Report

To consider the recommendation that the application be approved.

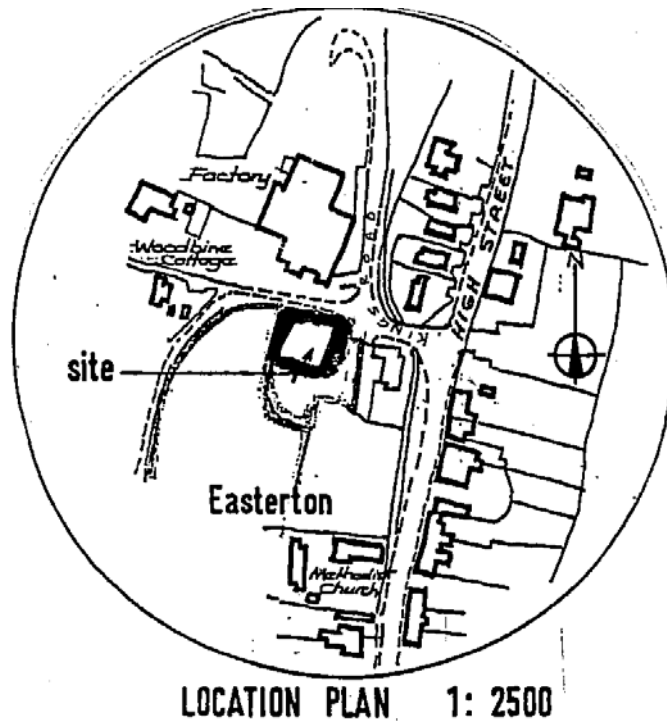
### 2. Report Summary

The main issues to be considered in this case are as follows;

- The impact of the proposal upon neighbour amenity, including from noise from the proposed air source heat pump
- The impact on visual amenity and the character and appearance of the conservation area
- The likelihood of the scheme encroaching on the adjacent public byway.

### 3. Site Description

The application site occupies a position adjacent to the junction of Kings Road with the public Byway known as 'The Drove'. The site can be accessed from Devizes by proceeding along Nursted Road (A342) in a south-easterly direction. Follow the road out of town for a couple of miles and turn right at Lydeaway signposted to Urchfont. At the T junction, turn right and proceed through the villages of Urchfont and Eastcott. Proceed down the hill into Easterton, and past the church on the right hand side. Take the right turning into Kings Road and the application site can be found over the bridge on the left hand side. The house is partially constructed and can be seen from both Kings Road and the byway running alongside its eastern flank. On the opposite side of the byway, the land rises to the former Jam factory site on which planning permission has recently been granted for redevelopment for residential purposes.



#### 4. Planning History

Relevant planning history includes:

**K/84/0621/LB** - Approve with Conditions 16/08/1984  
Demolish farm building

**K/84/0520** - Approve with Conditions 29/11/1984  
Erection of two houses

**K/14874** - Approve with conditions 24/10/1989  
Renewal of permission k/84/0520 for the erection of two dwellings

**K/14875/L** - approve with conditions 24/10/1989  
Renewal of permission k/84/0621lb for demolition of farm buildings

**K/20644** - approve with conditions 04/11/1993  
Erection of dwelling

**K/30719** - Approve with Conditions 28/11/1994  
The erection of detached dwelling house (as previously approved as part of K/84/0520 and K/14874).

**K/33995** - Refuse 16/04/1997  
The erection of 2 detached bungalows with garages.

**K/38420** - Approve with Conditions 10/02/2000  
Renewal of K/30719 for a detached dwelling house.

**K/51322/F** - Approve with Conditions 17/02/2005  
The erection of a detached dwelling house (renewal of planning permission K/38420)

**K/57892/F** - Approve with Conditions 11/02/2008

Erection of a 4 bed detached house, with attached garage, including all other associated works.

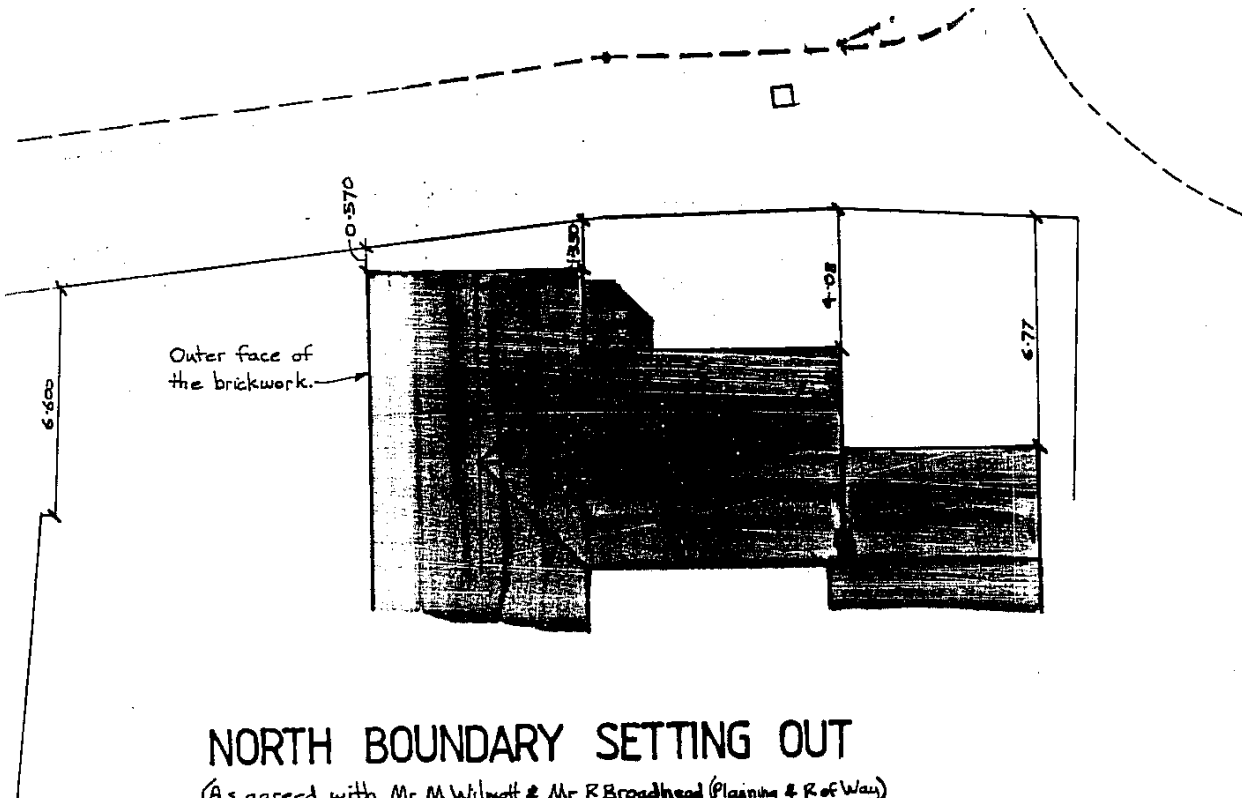
**K/59707/F** - Refuse 12/01/2009

Erection of a 4 bed detached house, with attached garage, including all other associated works.  
(Amendment to K/57892/F).

### 5. The Proposal

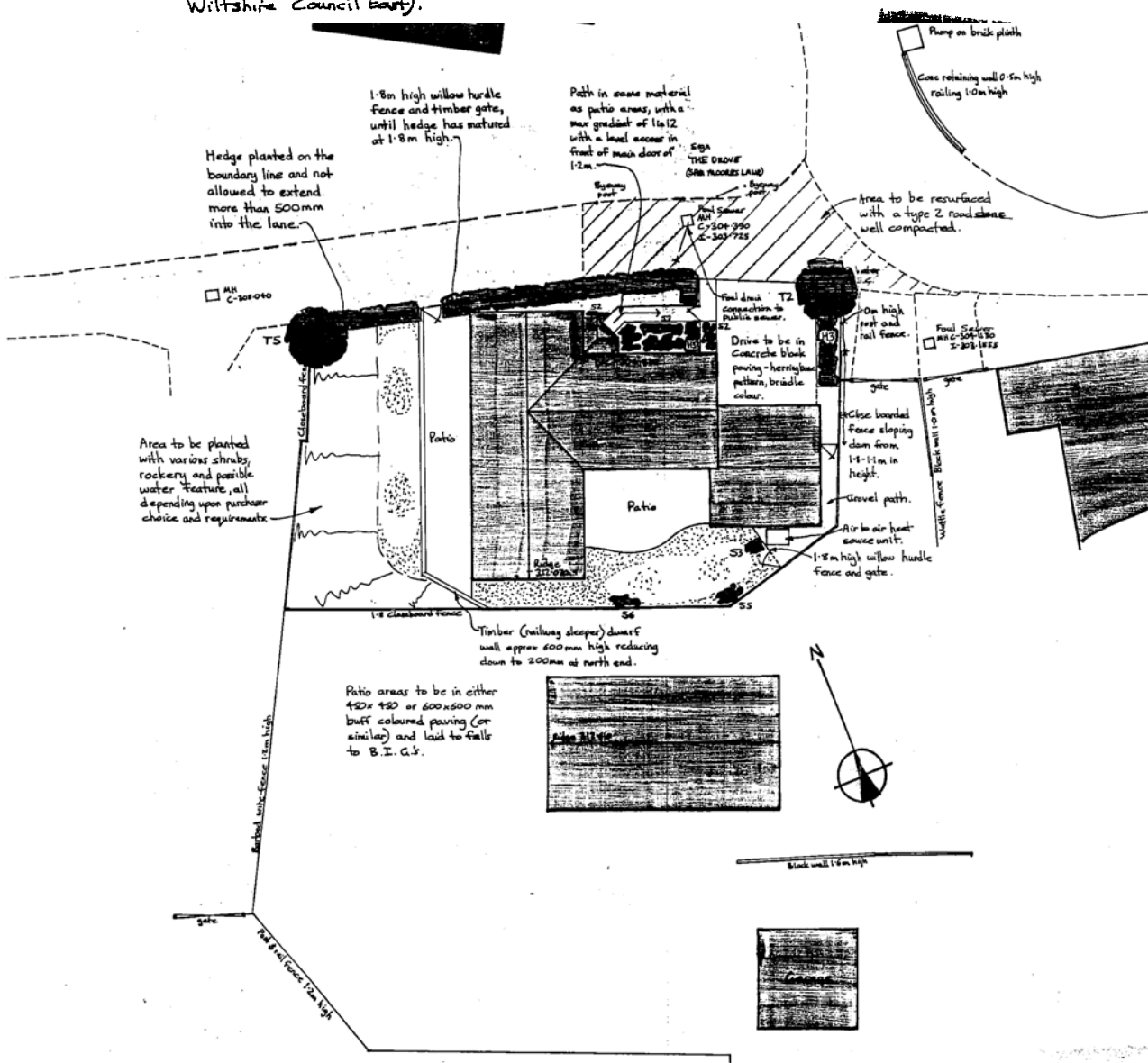
The application proposes the retention and completion of the dwelling in its current position, which is 0.5 metres closer to the byway to the north of the application site than was approved under planning reference K/57892/F. The design and scale of the property remains the same as was approved under that planning permission. The proposal also includes the provision of an air source heat pump.





## NORTH BOUNDARY SETTING OUT

(As agreed with Mr M Wilcott & Mr R Broadhead (Planning & Ref Way)  
Wiltshire Council East).



## **6. Planning Policy**

Kennet Local Plan – policy PD1 is applicable. National guidance on development in conservation areas is provided in Planning Policy Statement 5.

## **7. Consultations**

Wiltshire Council Rights of Way – there is a legally recorded width of the byway between 4 and 15 feet. There is no evidence yet discovered to demonstrate that the plan as shown definitely encroaches on the maximum recorded width. There is a possibility that further unrecorded width exists, with the issue centering on whether the now demolished building was built in the highway and therefore was an obstruction or whether the highway went around it. However both its width and positioning remain open to legal challenge by any organisation or member of the general public.

Environmental Health – No objection to the principle of the air source heat pump – location is acceptable subject to agreement of manufacturer's details (including noise levels) and mitigation in the form of an acoustic box, or similar as necessary. Standard domestic installations of this kind are unlikely to cause a nuisance subject to appropriate sound mitigation.

Easterton Parish Council – Originally objected to the scheme as in their view, the proposal represented an encroachment onto the highway, did not provide sufficient emergency and service access to Woodbine Cottage. The parish council also objected to the bulk of the property in close proximity to the byway, expressing that this was harmful to visual amenity and the character and appearance of the conservation area.

Following lengthy consideration, a further letter was received from the parish council which proposed alterations to the scheme to arrive at a suitable compromise. They recommended that a gated rear access be provided onto the byway to negate the need for a side access and suggest an alternative side access could be obtained on the opposite side subject to neighbour agreement to sell a strip of land. This representation also expressed concern about bank slippage of the banking adjacent the byway and cutting back of this banking by the developer.

The proposal has been subsequently amended to provide for a rear access as suggested. At the time of writing, a further consultation response regarding these amended plans is expected.

Wiltshire Fire and Rescue Service – Recommend an informative and that consideration be given to ensure that access to the site is adequate for the purpose of firefighting.

## **8. Publicity**

The application has been publicised by advertisement in the local paper and by site notice. Letters have been sent to known nearby landowners/ occupiers.

A totally of ten further parties have made representations on the application, all of whom have objected to the application. These objections include representations from the Byways and Bridleways Trust, the Trail Riders Fellowship and the Wiltshire Bridleways Association. Their concerns can be summarised as;

- There are concerns that the house or the proposed landscaping (or both), represent an encroachment onto the public byway
- The proposal would allow insufficient space for emergency and service access to Woodbine Cottage to the west
- That noise emanating from the proposed air source heat pump would harm the amenities of neighbouring occupiers
- That the property is unsuitable for the area, is disproportionate, ugly, overbearing on the byway
- That the previous reasons for refusal have not been adequately addressed
- That the proposal would be detrimental to visual amenity and the character and appearance of the conservation area.

## 9. Planning Considerations

The key considerations set out in the summary above are set out again for ease of reference.

- The impact of the proposal upon neighbour amenity, including from noise from the proposed air source heat pump
- The impact on visual amenity and the character and appearance of the conservation area
- The likelihood of the scheme encroaching on the adjacent public byway.

Taking each of these issues in turn, comments are as follows;

### Impact upon neighbour amenity

The proposed building is further away from the nearest neighbour at Plot number 2 (Walnut Tree House), Halstead Farm, Kings Road, Easterton, than was previously approved under planning permission K/57892/F, but remains the same in terms of its design and scale. Therefore the impact upon Walnut Tree House is slightly reduced from the fallback position and the changes do not adversely affect the amenities of any other neighbouring occupiers.

The proposal also now includes provision of an air source heat pump to the rear of the garage. An objection has been raised by one neighbour who has expressed concern about its proximity to his dwelling specifically with regard to the noise emanating from the pump. The Environmental Health Officer has confirmed that the provision of an air source heat pump in this location would be acceptable in principle subject to agreement of suitably detailed manufacturers details setting out its type and noise levels, and potentially, mitigation in the form of an acoustic box, although the existing close boarded fence may mitigate its impact satisfactorily. An acoustic box in this location would be discrete and would not cause any visual harm or harm the amenities of the neighbour. This element of the proposal would not cause any significant harm to neighbour amenity subject to the condition recommended.

### Impact on visual amenity and the character and appearance of the conservation area and the likelihood for encroachment onto the byway.

As previously expressed, the proposed scheme is for a dwelling of the same design and scale that was approved under planning reference K/57892/F, and followed an extant permission for a dwelling of a different design dating from the 1980s (K/84/0520). That permission (K/84/0520) first established the principle of the (remaining) site being acceptable for one dwelling. The design of the property and its scale has therefore already been allowed in principle and is established in the fallback position 0.5 metres further to the south. However what must now be considered is the impact of the dwelling in a position a further 0.5 metres further to the north, as has been largely constructed, and with the more limited space available for the implementation of a landscaping scheme to assimilate this dwelling with its surroundings.

Relevant to this application is planning refusal K/59707/F which was to retain the dwelling in the same position as is now proposed. However, the decision at this time was based upon concerns that the dwelling represented an encroachment onto the byway and would not therefore provide for adequate landscaping of the northern boundary. On this basis, the dwelling was considered would be too large, bulky and prominent in the amended position and thus harmful to the visual amenities of the area and the appearance of the conservation area.

Furthermore, regard must be had to the fallback situation of the position of previously approved dwellings on the site. In particular, the extant permission for the original dwelling which was only partially implemented (Plot 2) under reference K/84/0520, presents a much larger length elevation to the northern side approximately 0.5 metres further south of the northern-most more modest gable elevation of the current scheme. The area which remains for the landscaping of this boundary is therefore only reduced by 0.5 metres from the previously approved and extant schemes.

Since the refusal of application K/59707/F, significant additional investigations have taken place into the width and position of the byway by Wiltshire Council's Rights of Way Team and

Planning Officers. On the basis of the amended details, it is clear that the existing building does not encroach onto the definitive recorded width of the byway, even at its maximum width of 4.6 metres (15ft). Whilst other bodies or organizations might claim that the width of the byway is wider than recorded, this has not been established and can only be established in law if the Definitive Map is amended. This could be a lengthy process and it would be unreasonable to delay determination of the planning application in the circumstances where the building does not encroach onto the definitive right of way. Even if it is established that the byway is wider than the current width, there are separate powers under the Highways Act that would deal with the matter. The applicant's agent has been made aware of these. The amended scheme provides for a rear pedestrian access directly off the byway and removes the side access to enable sufficient space for a hedge to be planted along the boundary with a willow hurdle fence installed behind until the hedge reaches 1.8 metre.

Incidentally, the position of the northern-most gable end of the building is located further south than the northern wall of the previous agricultural building on the site and it appears that even with the proposed landscaping, this will not be any further north than the extent of this previous building which records show existed on this site in 1936 and remained until after 2005.

The available space for the byway provides adequate width for emergency and service access alongside.

In view of the findings of these investigations and the fallback positions, whilst this is clearly a finely balanced issue, it is considered that the achievable landscaping would sufficiently mitigate the previous concerns regarding impact of the scale and bulk of the proposal in close proximity to the byway. Consequently, the proposal would not result in significant harm to visual amenity and would have a broadly neutral impact on the character and appearance of the conservation area.

## **10. Conclusion**

On balance, the dwelling in conjunction with the achievable landscaping is considered acceptable in terms of its scale, bulk and design and its resulting impact upon visual amenity. Highway safety, and emergency access would not be prejudiced and officers are satisfied that no evidence has been found that definitively shows that the amended scheme results in any encroachment of the byway.

## **RECOMMENDATION**

Approve with Conditions

- 1 The development hereby permitted shall be begun before the expiration of three years of 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 All soft landscaping comprised in the submitted landscaping details hereby approved shall be carried out in the first planting and seeding season following the occupation of the building(s) or the completion of the development whichever is the sooner. All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the local planning authority.

**REASON:** To ensure a satisfactory landscaping setting for the development.

- 3 Prior to the first use of the access the driveway shall be surfaced in a well bound consolidated material (not loose stone or gravel) in accordance with details which have first been submitted to and approved in writing by the local planning authority, and shall be maintained as such thereafter.

REASON:

In the interests of highway safety.

- 4 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order, 1995 (or any Order revoking and re-enacting or amending that Order with or without modification), no additions to, or extensions or enlargements of, the building hereby approved shall be erected.

REASON:

To enable the local planning authority to retain control over the enlargement of the building in the interests of the proper planning and amenity area.

- 5 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order, 1995 (or any Order revoking and re-enacting or amending that Order with or without modification), no windows, doors or other openings, other than those shown on the approved plans shall be inserted above ground floor level in the south or east elevations of the building hereby permitted.

REASON:

In the interests of the privacy of the neighbouring properties

- 6 The en-suite window at first floor level shown on the approved plans on the east elevation shall be glazed with obscured glass and fitted with a ventilation stay restricting the opening of the window, in accordance with details which have been first approved in writing by the local planning authority. The window shall be maintained in accordance with the approved details thereafter.

REASON:

In the interests of the privacy of the neighbouring property.

- 7 Prior to the installation of the air source heat pump hereby approved full manufacturer's details and specifications (including noise details) of the air source heat pump together with appropriate noise mitigation measures, if required, shall first be submitted to and approved by the local planning authority in writing. The development shall be carried out in accordance with the approved details.

REASON:

In the interests of neighbour and visual amenity.

- 8 This decision relates to documents/plans submitted with the application, listed below. No variation from the approved documents should be made without the prior approval of this Council. Amendments may require the submission of a further application. Failure to comply with this advice may lead to enforcement action which may require alterations and/or demolition of any unauthorised buildings or structures and may also lead to prosecution.

Plan Ref: HF1-01, 02 and 04 all received on the 16th June 2009, additional survey



drawing dated 15th February 2009 and the Amended Site Plan - Landscaping and Location Plan received on the 26th March 2010.

- 9      **INFORMATIVE TO APPLICANT:**  
The attention of the applicant is drawn to the contents of the attached letter from Wiltshire Fire Brigade received on the 31st July 2009.
- 10     **INFORMATIVE TO APPLICANT:**  
Nothing in this permission shall authorise the diversion, obstruction, or stopping up of any right of way that crosses the site. A separate application under the Town and Country Planning or Highway Acts will be necessary.
- 11     **INFORMATIVE TO APPLICANT:**  
The applicant is requested to note that in respect of condition number 7, it is likely that further noise mitigation measures may be required, which may necessitate the installation of additional acoustic screening or an acoustic box. Full details of any mitigation measures (as required) will also need to be submitted before condition number 7 can be formally discharged.

**Appendices:**

None

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

Current and previous planning application files for the site