

## REPORT OUTLINE FOR AREA PLANNING COMMITTEES

<b>Date of Meeting</b>	01 April 2015
<b>Application Number</b>	N/13/01868/FUL
<b>Site Address</b>	52 Corn Gastons Malmesbury Wiltshire SN16 0LY
<b>Proposal</b>	Erection of Two Dwellings With Parking Spaces Per Unit (Resubmission of 12/03895/FUL)
<b>Applicant</b>	English Rose Homes Ltd.
<b>Town/Parish Council</b>	MALMESBURY
<b>Division</b>	MALMESBURY – Cllr Simon Killane
<b>Grid Ref</b>	392540 187590
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Christine Moorfield

### Reason for the application being considered by Committee

The application was considered by Committee on 8<sup>th</sup> January 2014, at which time Member resolved to delegate authority to Officers to approve the application subject to conditions and completion of a Section 106 legal agreement. However since that time changes to the National Planning Practice Guidance relating to planning contributions warrant reconsideration of the application.

This report has been updated with regard to revised material considerations brought about by the adoption of the Wiltshire Core Strategy. However, the body of the report remains virtually unchanged as the policies within the Wiltshire Core Strategy have not changed or altered the assessment of the scheme and/or the officers recommendation.

The section headed 'S106 contributions' and its final recommendation has been amended, the reference to the requirements for a 106 agreement has been removed and the officer recommendation is **APPROVE** subject to conditions.

### 1. Purpose of Report

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

APPROVED subject to conditions.

## **2. Report Summary**

In summary the main issues in respect of this development are as follows:

- Access and parking
- Design
- Impact on amenity of adjacent residents occupiers.

## **3. Site Description**

The proposed site is located to the rear of number 52 Corn Gastons. The site previously formed the end section of the rear garden belonging to the property. The site is located within a predominantly residential area. The area is characterised by two storey semi detached and terraced houses built in the 1950s

Access to the site is via a shared access to the school which is located immediately to the south east. The site has been cleared and there is close board fencing around it. There is a large conifer hedge along the south eastern boundary.

To the south east of the site is a school and the access route is used by pupils going to and from the school.

## **4. Planning History**

There has been a lot of planning history on the site. Of most relevance is an outline planning permission approved in 2005 N05/00898OUT, this was for residential development and of particular note is the condition which required any development on the site to be single storey. It was also conditioned that any residential development would require two car parking spaces.

In 2007 application number 07/1315 sought permission for a block of four no. flats with 4 car parking spaces. This application was refused for the following reasons:

1. The proposal by reason of its siting, height, bulk and orientation will have a detrimental impact on neighbouring uses contrary to policies C3 and H3 of the North Wiltshire Local Plan 2011.
2. Adequate provision cannot be made on site for the parking of vehicles. The proposed development would be likely to encourage the parking of vehicles on the public highway which would interrupt the free flow of traffic and prejudice the safety of road users at this point contrary to Policy C3 of the North Wiltshire Local Plan.

The applicant lodged an appeal and this was dismissed. The main issues considered by the inspector which lead to his decision were that the building was sited too close to the boundary (4m) and given its mass and bulk it would have an overbearing impact on the adjacent property. The first floor lounge windows would result in a loss of privacy to neighbours not just no. 50 but no. 48 as well. The proximity to the school was also unacceptable as the new development would impact on the school.

Since this decision the necessary car parking standards have changed. However in terms of local plans the relevant policies are still those contained within the Local Plan 2011.

## **5. The Proposal**

This proposal is for 2 x two storey, three bedroomed, semi detached dwellings. Four car parking spaces have been provided for use in association with the dwellings.

## **6. Planning Policy**

**At the time the application was considered by committee on the 8<sup>th</sup> January 2014 the policies were referred to as:**

Local Plan Policies C3, CF3 and H3

National Planning Policy Framework 2012.

Since the adoption of the Wiltshire Core Strategy (January 2015) the relevant policies are:

CP 60 i and CP61 ii sustainable transport and transport and development

CP57 Ensuring high quality design and place shaping.

CP1 The settlement strategy

National Planning Policy Framework 2012.

National Planning Practice Guidance 2014.

## **7. Consultations**

**Malmesbury Residents Association** strongly oppose the development for the following reasons:

1. The application does not conform with Policy C3(vii) of the Local Plan 2011 which requires new development to have a satisfactory means of access, turning, car parking and not have a detrimental impact upon highway or pedestrian safety.
2. The proposal is also in conflict with Policy C3 (iii) of the Local Plan 2011 which requires new developments to avoid creating an unacceptable loss of privacy and amenity to adjacent dwellings.
3. Thirdly we believe the proposal is in conflict with the progression of the Wiltshire Core Strategy and Malmesbury Neighbourhood Plan which does not identify this site as one on which future development should be delivered.

## **Drainage Engineer**

We have no objections in terms of flooding. However, there appears to be little information about proposed drainage; apart from a Wessex Water sewer plan. If the proposed site plans to discharge to WW sewer then we like to see copy of agreement. If not then we will require

SuDS scheme to be considered, accompanied then b BRE 365 percolation tests and soak away calculations.

**Environment Agency** - No objection

**Ecology** - No objection, an advice in respect of any protected wildlife considered acceptable.

### **Public Open Space**

It would be unreasonable to require the developer to provide a local park or LEAP and therefore an offsite contribution will be required. This development generates a need for £11,640 in offsite Open Space Contribution to be used to upgrade facilities at Newton Grove.

### **Education**

Malmesbury at primary level in particular, is currently the councils top pressure point for demand/supply of school places in the county, and as an exception to general policy (which is allowed for in the policy itself), all developments coming forward in this area which will generate a need for additional school places.

2 units generate a need for an additional 0.62 of a primary place (which is rounded up to 1 place), and for 0.44 of a secondary place, (which we round down to nil as it's below 0.5 of a place).

So our requirement here is for funding towards the provision of one primary place at the current cost multiplier of £12,713 per place. This figure will be valid as long at the relevant S106 is signed before the end of the 2012/13 financial year, after which it will be subject to review and updating.

This assessment is specific to the site location, number and mix of housing units described in the application form, and any changes to those will necessitate a new assessment.

### **Highways**

The amended plans have addressed previous concerns relating to the parking and turning on site. The remaining issue is the conflict between pedestrians and vehicles on the access track. Objections have been received in respect of this; however a material consideration is the permission that has been previously granted for a single dwelling which would have used the same access.

It is likely that the track will be used in the main by the occupiers of the dwellings with casual visitors and deliveries finding it more convenient to park on Corn Gastons. The Highway Engineer is satisfied that the track is of adequate width for vehicles and pedestrians to pass each other. Residents of the dwellings will also be aware of the times of high pedestrian usage.

In view of the above the possible conflict between vehicles and pedestrians is not, on its own, sufficient ground for a highway refusal and thus there is no objection subject to conditions in respect of the parking being provided and with a consolidated surface and laid

out in accordance with the approved details. This area shall be maintained and remain.

## **8. Publicity**

The application has been advertised in accordance with the council's consultation and neighbour notification protocol.

8 letters from neighbours have been received, the main reasons for objection

- Access and turning facilities unacceptable and dangerous.
- Conflict between children and vehicles as there is nowhere for a child to pass a car safely i.e. there is no footpath and no room for a footpath or any safe areas.
- Inadequate parking.
- Impact on wildlife and of note slow worms
- Large development cramped on site not in character with the area.
- The overdevelopment of this site could set a precedent for many other developments of this type in the area using people's gardens.
- Design not in keeping with area.
- Loss of privacy for neighbours' houses and school.
- During the construction period the local roads will have additional usage from heavy traffic resulting in considerable safety concerns for road and footpath users.
- Car parking spaces small.

## **9. Planning Considerations**

Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require that the determination of planning applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise.

The applicant has endeavoured to address the main issues in respect of this site and the concerns raised by the Planning Inspector. Subject to further discussions with the applicant and agent the scheme has been amended. The mass has been reduced further than that of the initial scheme submitted and as a result the height and length of the built mass is substantially smaller than that of the previously refused scheme. The proposed dwellings have a maximum height of 7.0m and the rear elevation has been modelled so that the first floor bedroom windows which are 6m from the boundary are roof lights and so do not result in direct overlooking of the adjacent gardens. The single storey rear element of the properties is only 4m from the boundary but this is not considered to have a detrimental impact on the adjacent residential properties and their occupier's amenity.

The Highway Engineer is satisfied that the parking and access arrangements are reasonable and acceptable given the fact that a single unit has been approved on the site.

The design of the units has been considered and care taken to minimise the impact that this built form will have on the adjacent neighbours. The Inspector in his decision raised certain matters, in particular the overlooking from first floor lounge windows of the gardens belonging to both number 48 and 50 Corn Gaston. In this respect the built form has been

moved back a further 2m from the boundary and the first floor windows are now bedroom windows and further amendments have changed these windows to roof lights. It is not considered therefore that loss of privacy to adjacent neighbour's properties would be a justifiable reason for refusal.

With regard to the school to the south there are no windows on this boundary other than those serving a bathroom and therefore it is not considered that this relationship between the new development and the school is unacceptable. At present there is a substantial hedge on this boundary which screens the development well but it is recognised this hedge could be removed.

The inspector considered the mass and bulk of the previous building to have a detriment impact on the amenity of neighbours. It is now considered that the mass and bulk has been reduced to such an extent that it is unlikely to have a detrimental impact on the neighbouring properties and therefore, refusal of this application on this basis is not considered justifiable. The previous single storey unit permission and the comments of the Inspector identified that a lower built form may be acceptable. The scheme as now submitted is relatively low and therefore is considered to be in line with these previous permissions/comments.

The applicant has agreed in principle to the payment of a Public Open Space and Education contributions.

## **10. Conclusion**

The proposal was considered acceptable in terms of its mass, bulk, the level of parking and access provided and complied with the policies within the North Wiltshire Local Plan 2011. The scheme is now considered acceptable in terms of its mass, bulk, the level of parking and access provided and complies with CP60 i, CP61 ii, CP57 and CP1 of the Wiltshire Core Strategy 2015 and the guidance and policies within the NPPF 2012 and the NPPG 2014.

### **S106 contributions**

**At the time of its initial consideration by Committee, the scheme attracted a financial contribution toward the provision of local off-site public open space and educational requirements in accordance with the development plan. As of 28 November 2014 however, the National Planning Practice Guidance (NPPG) stipulates that such contributions should not be sought for developments of fewer than 10 units and 1,000m<sup>2</sup>, except in Areas of Outstanding Natural Beauty or designated 'Rural Areas'. The Guidance is a material planning consideration and as such it is not considered reasonable to pursue the contribution in this instance. The recommendation is amended accordingly.**

### **RECOMMENDATION APPROVE**

Subject to conditions as agreed by committee on the 8<sup>th</sup> January 2014:

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: 3802/01A and 04A, 3802/50A and 51.

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

3. No development shall commence on site until details and samples of the materials to be used for the external walls and roofs have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

REASON: In the interests of visual amenity and the character and appearance of the area.

4. Prior to the commencement of development details of the drainage of the site must be submitted and approved by the local planning authority. If the water will discharge to Wessex Water sewer then the applicant must submit a copy of the agreement to the council. If not then a SuDS scheme will need to be submitted to and approved by the local planning authority, these details to be accompanied by BRE 365 percolation tests and soak away calculations.

REASON: In the interest of ensuring the site is adequately drained.

5. No part of the development hereby permitted shall be first occupied until the access, turning area and parking spaces have been completed in accordance with the details shown on the approved plans. The surface treatment of the parking areas to be a consolidated surface. The areas shall be maintained for those purposes at all times thereafter.

REASON: In the interests of highway safety.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking or re-enacting or amending that Order with or without modification), there shall be no additions/extensions or external alterations to any building forming part of the development hereby permitted.

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.

7. Prior to any works commencing on the site the hedge along the northern boundary of the access to the site shall be trimmed and cut back to ensure that the maximum width of the driveway is available to ensure safe use by vehicles and pedestrians. The hedge shall be maintained as such thereafter to ensure adequate visibility and safe passage for all users.

REASON: In the interests of highway and pedestrian safety.

8. No development shall commence on site (including any works of demolition), until a Construction Method Statement, which shall include the following:

- a) the parking of vehicles of site operatives and visitors;
- b) loading and unloading of plant and materials;

- c) storage of plant and materials used in constructing the development;
- d) wheel washing facilities;
- e) measures to control the emission of dust and dirt during construction;
- f) a scheme for recycling/disposing of waste resulting from construction works; and
- g) hours of construction, including deliveries; has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be complied with in full throughout the construction period. The development shall not be carried out otherwise than in accordance with the approved construction method statement.

REASON: To minimise detrimental effects to the neighbouring amenities, the amenities of the area in general, detriment to the natural environment through the risks of pollution and dangers to highway safety, during the construction phase.

INFORMATIVES:

1. The applicant is advised to consult with the Head Teacher and School Governors of Malmesbury School adjacent to the site in respect of any future proposals to erect gates or other enclosures to the site access.





