

AGENDA

Meeting: Southern Area Planning Committee

Place: The Pump Room - The Old Fire Station Enterprise Centre, 2 Salt Lane, Salisbury, SP1 1DU

Date: Thursday 14 December 2023

Time: 3.00 pm

Please direct any enquiries on this Agenda to Lisa Alexander of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01722 434560 or email lisa.alexander@wiltshire.gov.uk

Press enquiries to Communications on direct lines 01225 713114/713115.

This Agenda and all the documents referred to within it are available on the Council's website at www.wiltshire.gov.uk

Membership:

Cllr Andrew Oliver (Chairman)
Cllr Sven Hocking (Vice-Chairman)
Cllr Richard Budden
Cllr Sam Charleston
Cllr Brian Dalton
Cllr George Jeans

Cllr Charles McGrath
Cllr Ian McLennan
Cllr Nabil Najjar
Cllr Bridget Wayman
Cllr Rich Rogers

Substitutes:

Cllr Trevor Carbin
Cllr Ernie Clark
Cllr Kevin Daley
Cllr Bob Jones MBE

Cllr Ricky Rogers
Cllr Graham Wright
Cllr Robert Yuill

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Public Participation

Please see the agenda list on following pages for details of deadlines for submission of questions and statements for this meeting.

For extended details on meeting procedure, submission and scope of questions and other matters, please consult [Part 4 of the council's constitution](#).

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AGENDA

Part I

Items to be considered when the meeting is open to the public

1 **Apologies**

To receive any apologies or substitutions for the meeting.

2 **Minutes of the Previous Meeting** (*Pages 5 - 18*)

To approve and sign as a correct record the minutes of the meeting held on Thursday 27 July 2023.

3 **Declarations of Interest**

To receive any declarations of disclosable interests or dispensations granted by the Standards Committee.

4 **Chairman's Announcements**

To receive any announcements through the Chair.

5 **Public Participation**

The Council welcomes contributions from members of the public.

Statements

Members of the public who wish to speak either in favour or against an application or any other item on this agenda are asked to register **no later than 10 minutes before the start of the meeting**. If it is on the day of the meeting registration should be done in person.

The rules on public participation in respect of planning applications are linked to in the Council's Planning Code of Good Practice. The Chairman will allow up to 3 speakers in favour and up to 3 speakers against an application, and up to 3 speakers on any other item on this agenda. Each speaker will be given up to 3 minutes and invited to speak immediately prior to the item being considered.

Members of the public will have had the opportunity to make representations on the planning applications and to contact and lobby their local member and any other members of the planning committee prior to the meeting. Lobbying once the debate has started at the meeting is not permitted, including the circulation of new information, written or photographic which have not been verified by planning officers.

Questions

To receive any questions from members of the public or members of the Council received in accordance with the constitution which excludes, in particular,

questions on non-determined planning applications.

Those wishing to ask questions are required to give notice of any such questions in writing to the officer named on the front of this agenda no later than 5pm on Thursday 7 December 2023, in order to be guaranteed of a written response. In order to receive a verbal response questions must be submitted no later than 5pm Monday 11 December 2023. Please contact the officer named on the front of this agenda for further advice. Questions may be asked without notice if the Chairman decides that the matter is urgent.

Details of any questions received will be circulated to Committee members prior to the meeting and made available at the meeting and on the Council's website.

6 **Planning Appeals and Updates** (*Pages 19 - 20*)

To receive details of completed and pending appeals and other updates as appropriate.

Planning Applications

To consider and determine the following planning applications.

7 **Application Number: PL/2023/06801 - Second Floor, 31 Brown Street, Salisbury, SP1 2AS** (*Pages 21 - 36*)

Change of use from office/medical use (Class E) to a dwelling (Class C3).

8 **Urgent Items**

Any other items of business which, in the opinion of the Chairman, should be taken as a matter of urgency

Part II

Items during whose consideration it is recommended that the public should be excluded because of the likelihood that exempt information would be disclosed

Southern Area Planning Committee

MINUTES OF THE SOUTHERN AREA PLANNING COMMITTEE MEETING HELD ON 27 JULY 2023 AT THE PUMP ROOM - THE OLD FIRE STATION ENTERPRISE CENTRE, 2 SALT LANE, SALISBURY, SP1 1DU.

Present:

Cllr Sven Hocking (Chairman), Cllr Trevor Carbin, Cllr Sam Charleston, Cllr Brian Dalton, Cllr George Jeans, Cllr Nabil Najjar, Cllr Bridget Wayman and Cllr Robert Yuill (Substitute)

177 **Apologies and Committee Membership changes**

Apologies were received from:

- Cllr Andy Oliver (Chairman) – Cllr Sven Hocking in the Chair.
- Cllr Richard Budden – substituted by Cllr Trevor Carbin
- Cllr Charles McGrath
- Cllr Rich Rogers – substituted by Cllr Robert Yuill
- Cllr Ian McLennan

The Committee noted the following Committee Membership changes:

- Cllr Richard Budden was appointed as a full member, replacing Cllr Trevor Carbin who would remain as a substitute.

178 **Minutes of the Previous Meeting**

The minutes of the meeting held on 29 June 2023 were presented.

Resolved:

To approve as a correct record and sign the minutes.

179 **Declarations of Interest**

Cllr Bridget Wayman noted for openness that she was a member of the AONB Partnerships Panel.

180 **Chairman's Announcements**

The Chairman explained the meeting procedure to the members of the public.

181 **Public Participation**

The committee noted the rules on public participation.

182 **Planning Appeals and Updates**

The committee received details of the appeal decisions as detailed in the agenda.

It was;

Resolved:

To note the Appeals Report.

183 **Application Number: PL/2022/05051 - Land North of Holden Farm, Hindon Stagger, East Knoyle, Salisbury, SP3 6DE**

Public Participation

There were no registered speakers.

The Planning Team Leader, Adam Madge, introduced a report which recommended that the application for a proposed highway depot for Wiltshire Council comprising of one covered building with associated external yard area, to include 1000T salt store, 4no. vehicle bays, vehicle circulation area and two storey welfare accommodation. The external yard area to include a vehicle wash down, weighbridge, fuel filling facilities and a battery store with ecological water treatment system to the south of site. The application was recommended for Approval with conditions.

Proposed elevation drawings, illustrations and photos of the site were shown and explained.

It was explained that the application process had taken some time. There was an established strategic need for a salt store in the area. Highways had found it difficult to get to the current salt store in the Mere area during spells of bad weather. Other sites had been explored as set out in the report.

Concerns had been raised around lighting on the site, due to the location in the AONB. The proposed lighting, as outlined in the report was reported to meet with the minimum standards as set out in the Dark Sky policy.

The Chairman read information relating to the proposed lighting on the site, which had been provided by the Case Officer. The Committee noted that lighting would be dimmed to 10% at night when no person was on site to provide a level of security for the building and site.

There would be an automatic activation of the lights if triggered by a person, bringing the light up to 100% (pure down light only). 20 minutes after a movement trigger, the lights would return to 10% and stay there until

daylight. This format of lighting was the same as was used at the railway stations in the area.

The site was in the AONB. The proposed lighting was considered acceptable as the site would have minimal usage, only when weather conditions required salt to be spread.

This application had been brought to committee as the applicant was Wiltshire Council and there had been one objection from a third party and an objection from the Parish Council.

Members of the committee then had the opportunity to ask technical questions of the officer. Details were sought on the level of lighting proposed. The report stated the lighting would meet E2 standards and not E0 standards. The Division Member Cllr Bridget Wayman noted that in an AONB, the application should be conditioned to meet Dark Sky standards E0, which required lighting to be completely off when not in use, rather than reduced to 10%. The Officer explained that a maintained 10% of lighting was for safety, CCTV and operational reasons and that the proposed E2 did comply with Dark Sky policies.

Clarification on the alternative site exploration process and reasons for the proposed site being chosen was provided. The current site was found to be suitable after a lengthy process had been carried out to look at all possible alternatives against set criteria.

Landscaping and planting as set out in the report was discussed, with a question on whether more established trees or bushes could be included to limit the view from the rise of the road. The Committee was directed to the Landscaping Officer's response within the report, noting the proposed scheme was adequate, however if the Committee was mindful to approve the application, the type and/or size of trees used could be detailed within the conditions.

The status of a bridleway running through the site was clarified, in that if the application was approved, the applicant would apply to divert the bridleway.

The filtration system would manage all materials and was stated as being the same style of filtration system as used on a site at similar site in Amesbury.

The site would be able to operate with the proposed E2 lighting standards. Officers did not know whether restricting the site to E0 standards would cause the site to be inoperable. The Committee could if it wished, approve the application, subject to holding a discussion with the Chairman, Officers and the Division Member, to explore whether the site could remain functional if restricted to E0 lighting standards, it was mindful however, that restricting the site to E0 lighting standards, may impact the facility in such a way, making the operation unviable and therefore supported a bare minimum approach to the lighting, due to the location being in the AONB.

There were no registered public speakers.

The unitary division member, Councillor Bridget Wayman then spoke to the application. The site was a brownfield site, which unfortunately was on the top of a hill, making it more visible within the AONB. Cllr Wayman was in support of the application if the lighting could be restricted to conform to E0 standards.

In addition to a change to the lighting, Cllr Wayman asked for the planting scheme to include larger trees where it was visible from the rise of the A350 on southern side.

Cllr Wayman then moved a motion of Approval in line with the Officer recommendation, with the additional planting condition and the request to hold a discussion to explore the options for restricting lighting to E0 standards, or as near to it as was functionally possible.

This was seconded by Cllr Sven Hocking.

There was no further debate. Members then voted on the motion of Approval with the amended planting condition, and subject to a formal discussion involving the Case Officer, the Chairman, the Applicant, the Division Member and other relevant parties, to explore the viability of meeting E0 lighting standards.

It was;

Resolved

That planning permission for application PL/2022/05051, Land North of Holden Farm, Hindon Stagger, East Knoyle SP3 6DE, be Approved, subject to the following conditions:

Conditions (23):

- 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:**

Application form received 30/06/2022

Welfare First Level Plan Drg no WCHD - TBC -HS-01-DR-A-0206 Rev P.1 received 30/06/2022

Proposed roof plan Drg no WCHD - TBC -HS-ZZ-DR-A-0201 Rev P.1 received 30/06/2022

Proposed building plan Drg no WCHD - TBC -HS-00-DR-A-0200 Rev P.1 received 30/06/2022

Flood risk assessment received 30/06/2022

3D View - Interior Perspective- Salt Store- Drg no WCHD - TBC -HS-ZZ-SK-A-9103 Rev P.1 received 30/06/2022

Proposed site plan Drg no WCHD - TBC -HS-00-DR-A-003-Rev P3 received 13/02/2023

Proposed site plan – site section Drg no WCHD - TBC -HS-ZZ-DR-A-002-Rev P2 received 13/02/2023

Noise Impact Assessment (NIA) carried out by Hydrock dated 3rd June 2021 (ref: 17889-HYD-XX-XX-RP-Y-1001-P01) received 30/06/2022

Proposed Tree Removal Plan Drg no WCHD-TBC-HS-ZZ-SK-A-9010 Rev P1 received 30/06/2022

Tree protection plan received 30/06/2022

Welfare Accommodation Ground Level Plan Drg no WCHD-TBC-HS-00-DR-A-0205 Rev P1 received 30/06/2022

Design and access statement received 30/06/2022

Technical design note part 1 - Foul and Surface Water Drainage Strategy received 30/06/2022

Technical design note part 2 - Foul and Surface Water Drainage Strategy received 30/06/2022

Desk study and ground investigations 1-4 received 30/06/2022

3D View - East Elevation Perspective Drg no WCHD-TBC-HS-ZZ-SK-A-9101 Rev P1 received 30/06/2022

Plant schedule rev C02 received 13/02/2023

Proposed PV Panel Installation Plan Drg no 7707E3010P3 received 30/06/2022

Proposed Elevations Drg no WCHD-TBC-HS-ZZ-DR-A-2000 Rev P1 received 30/06/2022

3D View - Internal Perspective - Vehicle Bays Drg no WCHD-TBC-HS-ZZ-SK-A-9104 Rev P1 received 30/06/2022

Site Location Plan Drg no WCHD-TBC-HS-00-DR-A-0001 Rev P1 received 30/06/2022

Page 453D - Exploded Axonometric Drg no WCHD-TBC-HS-ZZ-SK-A-9100 Rev P1 received 30/06/2022

Proposed Sections WCHD-TBC-HS-ZZ-DR-A-3101 Rev P1 received 30/06/2022

3D View - West Elevation Perspective Drg no WCHD-TBC-HS-ZZ-SK-A-9102 Rev P1 received 30/06/2022

Proposed Elevations Welfare Drg no WCHD-TBC-HS-ZZ-DR-A-2001 Rev 01 received 18/07/2022

Waste audit received 31/08/2022

Archaeology - Geophysics Report 22-0024.01 (dated Sept 2022) received 08/09/2022

Shadow habitats regulations assessment received 13/02/2023.

External Lighting Layout Proposal. Drg no: 7707/E/3001 Revision P3. (Proair Consultants, Dec 2020). received 13/02/2023.

Landscape Proposals Plan. Drg on (NPA-11198-300. (Nicholas Pearson Associates, 14/06/2021) received 13/02/2023.

External lighting levels Drg no7707/E/3003 Revision P2 received 13/02/2023.

External Lighting Isolux Plot with Lanterns at 100% when facility is in operation. Drg no: 7707/E/3003 Revision P1. (Proair Consultants, Dec 2020). received 13/02/2023.

External Lighting Isolux Plot with Lanterns at 10% Automatic Night Standby Mode. Drg on: 7707/E/3004 Revision P1. (Proair Consultants, Dec 2020). Received 13/02/2023.

Landscape and visual impact assessment received 13/02/2023.

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

3) No development shall commence within the area indicated by application PL/2022/05051 until:

- a) A written programme of archaeological investigation, which should include on-site work and off-site work such as the analysis, publishing and archiving of the results, has been submitted to and approved in writing by the Local Planning Authority; and**
- b) The approved programme of archaeological work has been carried out in accordance with the approved details.**

REASON: To enable the recording of any matters of archaeological interest.

- 4) The development hereby permitted may not commence until such time as a scheme to manage water quality and flow from all sources of water originated from the site has been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented as approved.**

REASON To ensure that the proposed salt storage facility does not harm groundwater resources in line with paragraph 174 of the National Planning Policy Framework and Position Statement G1 – Direct inputs into groundwater, G7 – Evidence of pollution from liquid effluent and G13 – Sustainable drainage systems of the ‘The Environment Agency’s approach to groundwater protection’.

5) Prior to each phase of development approved by this planning permission no development shall commence until a remediation strategy to deal with the risks associated with contamination of the site in respect of the development hereby permitted, has been submitted to, and approved in writing by, the local planning authority. This strategy will include the following components:

- 1. A preliminary risk assessment which identifies:**
 - a) all previous uses**
 - b) potential contaminants associated with those uses**
 - c) a conceptual model of the site indicating sources, pathways and receptors**
 - d) potentially unacceptable risks arising from contamination at the site**

2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.

3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the written consent of the local planning authority. The scheme shall be implemented as approved.

REASON: To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution in line with paragraph 174 of the National Planning Policy Framework.

6) Prior to any phase of development being brought into use, a verification report demonstrating the completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to, and approved in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

REASON: To ensure that the site does not pose any further risk to the water environment by demonstrating that the requirements of the approved verification plan have been met and that remediation of the site is complete. This is in line with paragraph 170 of the National Planning Policy Framework.

7) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to, and approved in writing by, the local planning authority. The remediation strategy shall be implemented as approved.

REASON: To ensure that the development does not contribute to and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site. This is in line with paragraph 174 of the National Planning Policy Framework.

- 8) The development hereby permitted may not commence until such time as a scheme to secure an acceptable means of water supply has been submitted to, and approved in writing by, the local planning authority. The scheme shall be fully implemented in accordance with the approval, or any changes as may subsequently be agreed, in writing, by the local planning authority.

REASON: To ensure that the proposed development does not harm the water environment in line with paragraph 174 of the National Planning Policy Framework.

- 9) The development hereby permitted shall not be occupied at any time other than by Wiltshire Council in its role as Local Highway Authority.

Reason: The development is sited in a location where the Local Planning Authority, having regard to planning policies pertaining to the area and in respect to car parking requirements, would not permit an unrestricted commercial use.

- 10) No development shall commence on site until full details of the proposed access improvements have been submitted to and approved in writing by the Local Planning Authority. The proposed access improvements shall thereafter be implemented in full prior to the development being first brought in to use.

Reason: In the interests of highway safety.

- 11) Notwithstanding the submitted details, the proposed development shall not be occupied until means/works have been implemented to avoid private water from entering the highway.

Reason: To ensure that the highway is not inundated with private water.

- 12) No part of the development hereby permitted shall be first brought into use until the access, turning area and parking spaces have been completed in accordance with the details shown on the approved plans. The areas shall always be maintained for those purposes thereafter.

Reason: In the interests of highway safety.

- 13) No development shall commence on site until the following details have been submitted to and approved in writing by the Local Planning Authority:

- Calculations and drawings for the drainage system design showing conveyance routes are designed to convey without flooding the critical 1 in 30 year + climate change rainfall event
- Calculations and drawings for the drainage system design showing

attenuation features are designed to attenuate without flooding the critical 1 in 100 year rainfall event + climate change

- Hydraulic Models should set the MADD factor / additional storage volume factor to 0m³ / ha in order to prevent an overestimation of storage capacity in the proposed drainage network.
- The attenuation features have been sized using the slowest infiltration rate observed from testing (in accordance with BRE365)
- The drainage layout includes the dimensions and attenuation volume required for the SuDS features, based upon the calculations referred to above.
- Cross sections of the treatment cells within the Ecological Treatment System.
- Drawings showing conveyance routes for flows exceeding the 1 in 100 year plus climate change rainfall event that minimise the risk to people and property.

REASON: The application did not contain sufficient information and the above is required to ensure effective drainage is maintained on site to prevent impacts on the ground water.

- 14) No development shall commence on site until a construction management plan, which shall include monitoring of, and measures to retain, the existing vegetation across the site, together with details of drainage arrangements during the construction phase, has been submitted to and approved in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority.

REASON: To ensure that the development is carried out in a manner to protect the vegetation on site and to avoid impact on the ground water

- 15) All noise attenuation measures and recommendations, as detailed in Section 4 and 5 of the Noise Impact Assessment (NIA) carried out by Hydrock dated 3rd June 2021(ref: 17889-HYD-XX-XX-RP-Y-1001-P01) shall be implemented in full and maintained at all times thereafter. Notwithstanding the approved NIA development shall be restricted to four HGVs operating on site at one time during the night time hours (23.00hrs to 07.00hrs).

REASON: In the interests of residential amenity.

- 16) No development shall commence on site until a scheme of acoustic insulation and noise control has been submitted to and approved in writing by the Local Planning Authority. The scheme should specify the acoustic insulation and other measures to be put in place to prevent and control the emission from all ancillary plant to be installed at the development including noise from air source heat pumps (ASHP's), generators and combined heat power (CHP) engines. The approved scheme shall be implemented in full before the use commences and maintained at all times thereafter.

REASON: In the interests of residential amenity.

- 17)The scheme shall be based on an acoustic assessment undertaken in accordance with BS4142:2014 +A1:2019. The scheme shall be designed to achieve a rating level of 5dB below the Background (LA90) level for the evening period (19:00 – 23:00) shown in table 3 of Hydrock Hindon Stagger Salt Depot Noise Impact Assessment dated 3rd June 2021 Document reference 17889-HYD-XX-XX-RP-Y-1001-PO1.**

REASON: In the interests of residential amenity

- 18) Prior to first use of the lighting scheme hereby approved, the applicant shall appoint a suitably qualified member of the institute of lighting professionals (ILP) to validate that the lighting scheme as installed conforms to the recommendations for environmental zone E0 in the ILP document “Guidance Notes for the Reduction of Obtrusive Light - Guidance Note 01:20. A letter written by a suitably qualified member of the ILP confirming this shall be submitted to the Local Planning Authority. The scheme shall thereafter be permanently retained in accordance with the details submitted.**

REASON: In the interests of the requirement to reduce light pollution in the International Dark Sky Reserve of the Cranbourne Chase AONB

- 19)No construction shall take place on Sundays or Public Holidays or outside the hours of 07:30 to 18:00 Monday to Friday and 08:00 to 13:00 on Saturdays.**

REASON: In the interests of the amenity of nearby residential properties

- 20)Prior to the commencement of works, including demolition, ground works/excavation, site clearance, vegetation clearance and boundary treatment works, a Construction Environmental Management Plan (CEMP) shall be submitted to the local planning authority for approval in writing. The Plan shall provide details of the avoidance, mitigation and protective measures to be implemented before and during the construction phase, including but not necessarily limited to, the following:**

- a) Identification of ecological protection areas/buffer zones and tree root protection areas and details of physical means of protection, e.g. exclusion fencing.**
- b) Working method statements for protected/priority species, such as nesting birds and reptiles.**
- c) Work schedules for activities with specific timing requirements in order to avoid/reduce potential harm to ecological receptors; including details of when a licensed ecologist and/or ecological clerk of works (ECoW) shall be present on site.**

- d) Key personnel, responsibilities and contact details (including Site Manager and ecologist/ECoW).
- e) Timeframe for provision of compliance report to the local planning authority; to be completed by the ecologist/ECoW and to include photographic evidence. Development shall be carried out in strict accordance with the approved CEMP.

REASON: To ensure adequate protection and mitigation for ecological receptors prior to and during construction, and that works are undertaken in line with current best practice and industry standards and are supervised by a suitably licensed and competent professional ecological consultant where applicable.

- 21) Prior to the start of construction, a Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The LEMP will include long term objectives and targets, management responsibilities and maintenance schedules for each ecological feature within the development, together with a mechanism for monitoring success of the management prescriptions, incorporating review and necessary adaptive management in order to attain targets. The LEMP shall also include details of the legal and funding mechanism(s) by which long-term implementation of the plan will be secured. The LEMP shall be implemented in full and for the lifetime of the development in accordance with the approved details.

REASON: To ensure the long-term management of landscape and ecological features retained and created by the development, for the benefit of visual amenity and biodiversity for the lifetime of the scheme.

- 22) The development will be carried out in strict accordance with the following documents:

- Sections 6 and 7 of the Ecological Impact Assessment. Hindon Stagger, East Knoyle, Wiltshire. (ethos Environmental Planning, January 2023).
- Landscape Proposals Plan. Drawing Number: (NPA-11198-300. (Nicholas Pearson Associates, 14/06/2021).
- External Lighting Layout Proposal. Drawing Number: 7707/E/3001 Revision P3. (Proair Consultants, Dec 2020).
- External Lighting Isolux Plot with Lanterns at 100% when facility is in operation. Drawing Number: 7707/E/3003 Revision P1. (Proair Consultants, Dec 2020).
- External Lighting Isolux Plot with Lanterns at 10% Automatic Night Standby Mode. Drawing Number: 7707/E/3004 Revision P1. (Proair Consultants, Dec 2020).
- Biodiversity Net Gain Results. (Ethos Environmental Planning, February 2023).

REASON: For the avoidance of doubt and for the protection, mitigation and enhancement of biodiversity.

23) No development shall commence on site until a revised landscaping plan has been submitted to and agreed by the Local Planning Authority to replace the feathered whips on the southern side of the reed bed with the same number of larger trees; species, number of trees and siting to be included with the revised landscape plans.

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

Informatives (4)

1) Pollution Prevention During

Construct Safeguards should be implemented during the construction phase to minimise the risks of pollution from the development. Such safeguards should cover:

- the use of plant and machinery
- wheel washing and vehicle wash-down
- oils/chemicals and materials
- the use and routing of heavy plant and vehicles
- the location and form of work and storage areas and compounds
- the control and removal of spoil and wastes.

2) Diversion Of Rights Of Way

Please be advised that nothing in this permission shall authorise the diversion, obstruction, or stopping up of any right of way that crosses the site. The right of way must be kept open at all times until an order has been confirmed and the alternative, if applicable, has been certified by Wiltshire Council.

3) Surface water drainage

The surface water drainage strategy must comply with Wiltshire Council's Surface Water Soakaway Guidance, which sets out the standards that must be met for planning approval and adoption.

4) Lighting

Regarding the development conforming to E0 lighting standards, it was suggested at committee that a meeting is convened between the AONB dark skies/lighting advisor and local planning authority and that the applicants are also encouraged to meet with the dark skies advisor to discuss how to achieve the E0 lighting standards.

184 **Urgent Items**

There were no urgent items

(Duration of meeting: 3.00 - 3.35 pm)

The Officer who has produced these minutes is Lisa Alexander of Democratic Services, direct line 01722 434560, e-mail lisa.alexander@wiltshire.gov.uk

Press enquiries to Communications, direct line 01225 713114 or email communications@wiltshire.gov.uk

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**Wiltshire Council
Southern Area Planning Committee
14th December 2023**

Planning Appeals Received between 14/07/2023 and 01/12/2023

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Appeal Start Date	Overturn at Cttee
PL/2022/07357	Nursery Farm, Stock Lane, Landford, Salisbury, SP5 2ER	Landford	Notification for prior approval under Part 3, Class Q for one agricultural building to be converted into five residential dwellings.	DEL	Written Representations	Refuse	13/09/2023	No
PL/2022/08912	Plymouth, Stock Lane, Landford, Salisbury, SP5 2EW	Landford	The buildings are part of a group situated behind the existing farmhouse and served by an existing access drive alongside the farmhouse. One dwelling would be detached and the other four would be two pairs of semi-detached dwellings. All would provide two bedrooms and have one parking space each, although there is space on the site for unallocated additional parking.	DEL	Written Representations	Refuse	07/11/2023	No
PL/2023/00740	Stonehenge Touring Park, Whatcombe Brow, Orcheston, SP3 4SH	Orcheston	Certificate of Lawfulness for the use of land as a touring caravan site for holiday purposes and parking of unoccupied touring caravans during the months of November to February	DEL	Inquiry	Refuse	15/11/2023	No
PL/2023/00745	Stonehenge Park, Whatcombe Brow, Orcheston, SP3 4SH	Orcheston	Certificate of lawfulness for use of land as part of a holiday touring park for the purposes of recreational use by guests of the holiday park throughout the year and seasonal grass pitches for tents, campervans and touring caravans during the months of April to September each year	DEL	Inquiry	Refuse	15/11/2023	No
PL/2023/00746	Greenacres Farm, Rockbourne Road, Coombe Bissett, SP5 4LP	Coombe Bissett	Conversion of an existing outbuilding to residential with parking and amenity area (resubmission of app 21/00845/FUL)	DEL	Written Representations	Refuse	10/10/2023	No
PL/2023/00794	Land Adjacent to Knapp Farmhouse, High Lane, Broad Chalke	Broad Chalke	Change of use of a parcel of land to residential use, the erection of a detached 3-bedroom dwelling, a detached carport, creation of a new access onto High Lane, hard and soft landscaping and associated works (resubmission of PL/2022/08054)	DEL	Written Representations	Refuse	07/09/2023	No
PL/2023/00848	57 Estcourt Road, Salisbury, SP1 3AS	Salisbury	Upgrade of existing 48 sheet advert to support digital poster	DEL	Householder Appeal	Refuse	08/11/2023	No
PL/2023/01274	15 Bugdens Close, Amesbury, Salisbury, SP4 7WG	Amesbury	Retrospective fence - within the border of property, to the side/rear of the house.	DEL	Written Representations	Refuse	06/11/2023	No

PL/2023/01827	The Stables, New Manor Farm, Pitton Road, West Winterslow, SP5 1SE	Winterslow	Conversion of existing building into a 2 bedroom residential dwelling. The building is sited close to the road side and has adequate parking and amenity area for the dwelling.	DEL	Written Representations	Refuse	09/10/2023	No
PL/2023/02313	Barn at Berrybrook Farm, Street Lane, Sedgehill, SP7 9JQ	Sedgehill and Semley	The development proposed is a change of use of agricultural barn (barn F) to a dwellinghouse (Use Class C3) and for associated operational development.	DEL	Written Representations	Refuse	19/09/2023	No
PL/2023/02943	7 Fisherton Island, Salisbury, SP2 7TG	Salisbury	Carry out alterations and erection of first floor extension and rear two storey extension	DEL	Householder Appeal	Refuse	23/10/2023	No

There are no Planning Appeals Decided between 14/07/2023 and 01/12/2023

REPORT FOR SOUTHERN AREA PLANNING COMMITTEE

Item No:

Date of Meeting	14 th December 2023
Application Number	PL/2023/06801
Type of application	Full planning permission
Site Address	Second Floor, 31 Brown Street, Salisbury, SP1 2AS
Proposal	Change of use from office/medical use (Class E) to a dwelling (Class C3)
Recommendation	Refuse
Applicant	Breckenwood Ltd
Town/Parish Council	Salisbury CP
Electoral Division	Salisbury St. Edmund's ED
Case Officer	Julie Mitchell

Reason for the application being considered by Committee

At the request of the elected member Cllr Paul Sample for the reasons that the application would reuse redundant offices and deliver an affordable flat to rent or buy.

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 refused.

2. Report Summary

The main issues to consider are:

- Principle of development
- Residential amenity
- Highways (parking)
- Visual and heritage impacts
- River Avon SAC catchment

3. Site Description

The application site comprises a second floor office suite within a purpose built complex of offices known as Chequers Court which were constructed in the 1980's. The site lies at the

northern end of the block. The ground floor and first floor beneath the application site continue to operate as commercial premises for a Podiatry Practice. Permission for the use of 31 Brown Street to include health services in addition to office uses was previously granted on the basis that the use remained commercial. From what can be ascertained by external inspection and name plates on the entrance doors, the remainder of Chequers Court remains in commercial use as office space.

The immediately adjacent use to the north of the site operates as a licenced night time venue, No. 29 Brown Street formerly being part of a long established nightclub which is now physically separated internally from the nightclub and now operates under separate management as a bar serving food and drink. The forecourt to No. 29 Brown Street has a more recent permission for use as an outdoor hospitality area following the demolition of a building formerly occupied by a charity. The outside hospitality area is an integral feature of the licenced premises.

The site is located within the city centre of Salisbury and lies within the Conservation Area.

4. Planning History

S/1985/1687 - Erection of 6 No. 3-storey office units and construction of access

S/1986/1293 - Erection of 6 No. 3-storey office units without compliance with condition no. 2 of planning permission s/85/1687

S/2022/1354 - Change of use from office on ground floor to use as chiropody/podiatry clinic D1

S/2007/1661 - Change of use of office premises to podiatrists clinic (Class D1) - Ground floor, 31 Brown Street

S/2010/0651 - Change of use of second floor from B1 (office) to D1 (Chiropody and Podiatric Clinic) - Second floor, 31 Brown Street

PL/2023/03417 - Change of use from office/medical use (Class E) to a dwelling (Class C3) - Withdrawn

29 AND 29A Brown Street:

PL/2021/04305 - Demolition of existing building 29A Brown Street, erection of gates and railings as modification to the front facade of 29 Brown Street (Sarum 76) - Approved

5. The Proposal

The application is a full application for change of use of the second (top) floor of No. 31 Brown Street from office/health services to a self-contained residential unit comprising 2 bedrooms and living room, kitchen and bathroom facilities. There are no external alterations to the building associated with the change of use.

6. Local Planning Policy

National Context:

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)
Planning (Listed Buildings and Conservation Areas) Act 1990
National Design Guide (NDG)

Local Context:

Wiltshire Core Strategy (WCS) adopted 2015
Core Policy 1 - Settlement Strategy
Core Policy 2 - Delivery Strategy
Core Policy 3 - Infrastructure Requirements
Core Policy 20 - Development in the Salisbury Community Area
Core Policy 35 – Employment sites
Core Policy 38 - Retail and leisure
Core Policy 41 - Energy Strategy
Core Policy 43 - Providing Affordable Housing
Core Policy 50 - Biodiversity and Geodiversity
Core Policy 52 - Green Infrastructure
Core Policy 57 - Design and amenity
Core Policy 58 - Ensuring the conservation of the historic environment
Core Policy 60 – Sustainable Transport
Core Policy 61 – Transport and New Development
Core Policy 64 – Demand Management
Core Policy 67 - Drainage and flooding
Core Policy 68 - Water resources
Core Policy 69 - Protection of River Avon SAC

Wiltshire Housing Site Allocations Plan (February 2020) (WHSAP)
Housing Land Supply Statement Published April 2022

Adopted Salisbury District Local Plan saved policies:

D4 - Eastern Chequers
E4 - Eastern Chequers
H4 - Eastern Chequers
H8 - Housing Policy Boundary of Salisbury
R2 – Recreational Open Space

Waste Core Strategy 2006-2026

Wiltshire Local Transport Plan 2011-2026:
Car Parking Strategy (Policy PS6 - Residential parking standards)
Cycling Strategy

7. Summary of consultation responses

Salisbury City Council

No comments received.

WC Public Protection

The development site is located on the top floor of an existing office block, and is immediately adjacent to an outdoor Licenced Premise which is permitted to operate in accordance with the premises licence/ any associated planning conditions and includes amplified music (live and recorded). A 5m high acoustic barrier was erected between the development site and Licenced Premise, as part of the planning permission for the licenced premise, to protect the amenity of existing nearby residents, however the development site is situated above the top of the barrier and therefore, it will not afford any protection from noise associated with the licenced premise to any future occupiers of the proposed residential development.

I have carefully read the noise report completed by Clement Acoustics (dated 8 August 2023 Ref 18508-EBF-01), which has been submitted with the application and note passive wall ventilation and glazing is recommended to mitigate noise from nearby plant, road traffic noise and noise associated with the neighbouring licenced premise.

The author refers to AVO (Acoustic Ventilation & Overheating) Guidelines and comments on page 12 of the report the internal noise levels 'do not reach the AVO threshold for significance on either the front or rear façades, indicating the use of openable windows could be an acceptable solution for rooms with windows opening, with the exception of night time hours during worst case operation of the Brown street Premises'.

The AVO guidance is at odds with guidance provided by WHO and BS8233 for indoor ambient noise levels for dwellings. The author of the report fails to outline in the report internal ambient noise levels, in accordance with WHO and BS8233, cannot be achieved when windows are open for purge ventilation. The predicted internal noise levels with windows open for 'worst case scenario' i.e. when regulated entertainment is taking place outside at the neighbouring licenced premise, are predicted to be 49dB (day and night) on the rear façade. As such, WHO and BS8233 guidance for internal ambient noise levels will be exceeded by 19dB night time and 14dB day time with windows open. Equally, outside of predicted worst case scenario, with windows open, internal noise levels will be exceeded by 14dB daytime and 11dB night time on the front façade, and 5dB day time and 5dB night time on the rear façade.

It is reasonable that any future occupants of the proposed development will wish to have windows open and should not be expected to keep them closed at all times; and be able to sleep without disturbance from activities and noise associated with the neighbouring licenced premise or other licenced premise in the vicinity (i.e. Epic Bar @ The Chapel).

This department will not accept any strategy that recommends the use of non-openable windows for residential properties as a means of securing the internal acoustic environment. Where openable windows are provided, this department will not accept a strategy that relies on the occupier of the noise sensitive premises having to close the window during noisy activities. For proposed new residential development with entertainment premises nearby, the design aim should be for music to be 'inaudible' within habitable rooms with windows open.

We therefore recommend refusal of this application as it has not been demonstrated that internal ambient noise levels in accordance with WHO and BS8233 can be achieved with windows open.

Additional comments received:

The licenced premise planning application was assessed in relation to the existing residential properties, and did not consider the possibility of unknown future residential properties which may be located in closer proximity to the site than existing residential properties. The mitigation to control noise from the licenced premise site was conditioned as part of the approval to protect the amenity of those existing residents.

The potential impact of noise from the licenced premise on any future occupants of the proposed residential property is not considered to be 'unidentifiable city centre noise', and therefore, it is foreseeable that if this application were to be approved, future occupants may be adversely impacted by noise associated with an identifiable source i.e. the outside licenced premise which is operating in accordance with the conditions of the premises licence and planning consent.

WC Highways

There is no Highway objection to the proposal to change the use of the second floor of the existing building from an office / medical use (class E) to a dwelling (class C3). The site is in a most sustainable location within Salisbury City centre, close to amenities and public transport opportunities. It meets the criteria for a relaxation in allocated car parking as set out in policy PS6 of the Wiltshire Parking Strategy. The provision for covered and secure cycle parking should be provided if possible.

8. Publicity

A third party representation of objection has been made by the business operating from the adjacent site as follows:

- Rude Giant Brewing Company Limited owns and operates Salisbury's largest independent large music venue next door (formerly Knightwood Leisure T/A Brown Street).
- The business employs five full time members of staff, and 12 members of part time staff.
- The premises itself has a well-regarded reputation as an independent music space, providing a venue for local musicians and music producers to exhibit their work.
- Moreover, the premises supports a number of independent food and drink producers.
- The business also works hard to ensure its activities cause as little disruption as possible to its neighbours.
- Directors of the business engage in frequent consultations with neighbours, and Beerhouse standard operating procedures have been modified as a result.
- However, if a dwelling was created directly adjacent to the Beerhouse outside space, it is likely that even very basic sound levels coming from the Beerhouse would exceed the maximum acceptable noise levels heard from the dwelling.
- Change of use of the top floor of 31 Brown Street from office space to residential use will threaten the future viability of the Rude Giant Beerhouse.
- It is frankly unreasonable for a hospitality and live music space to regulate its sound output to the level required to make adjacent residential space that is so close to the venue habitable, based on permitted noise levels outlined in Public Protection's comment already logged on this application.

- Our concern is the challenge the business will face in managing future occupants' noise expectations given the close proximity between the proposed dwelling and the Rude Giant Beerhouse; and the inability of the business to substantially reduce the noise output to required levels were there a dwelling in place, whilst also remaining viable in its current form.
- Due to the above, we object to the proposed new dwelling, and hope the Planning Authorities will make note of our concerns.

A representation of support has been made by Cllr Paul Sample, the divisional member for the area in which the site is located:

- When I was elected in 2021 I said that I would support, wherever possible, applications to turn redundant offices in affordable flats to rent or buy.
- This application delivers another MUCH NEEDED flat and contributes to my aim to re-populate the centre of the City.
- Any resident buying a property near a licensed premises will know that the consequences of living near a popular venue will be some disturbance and this will be reflected in the price that they pay for the purchase (or rent) of the property.
- I believe that the PPO's objection is nonsensical.
- We would have no flats over or near licensed premises if we took that approach.
- I therefore ENTHUSIASTICALLY support this application.
- If the planning officer is minded to reject the application then I would ask to call it in for a full report and discussion by committee.
- I have had no objections from local residents to this application.

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.

Principle of Development:

The proposed site forms part of a three-storey purpose built block of offices constructed in the 1980's. The end unit, 31 Brown Street, has been subject to previous planning applications for change of use from office (B1 use) to chiropody/podiatry clinic (D1) which the application states remains the use at ground and first floor level. The second floor, which is subject to this application, is currently vacant and which the planning statement describes comprises an "office suite" arranged as 3 rooms, with kitchen facilities (85 sq m) and which has been marketed as an office suite with planning for medical use with optional parking.

Whilst the last planning permission is subject to condition that it is only to be used for D1 use, classes B1 and D1 have been superseded and the majority of such previous uses now fall within the same use class of the amended Use Classes Order, Class E, which includes a broader range of uses with the intention of allowing for greater flexibility between commercial and service uses in town centres. Additionally Class MA of the amended General Permitted

Development Order allows for development consisting of the change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service) of Schedule 2 to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of Schedule 1 to that Order, subject to a number of limitations and exclusions as well as a requirement for a determination of whether prior approval is required in respect of the impacts and risks, namely transport impacts, contamination risks, flooding risks, impacts of noise from commercial premises on the intended occupiers of the development; the character or sustainability of the conservation area; the provision of adequate natural light in all habitable rooms; the impact on intended occupiers of the development of the introduction of residential use in an area the authority considers to be important for general or heavy industry, waste management, storage and distribution, or a mix of such uses; the impact on the local provision of the type of services lost where it involves the loss of a registered nursery or health centre maintained under section 2 or 3 of the National Health Service Act; and the fire safety impacts on the intended occupants of the building.

In this case however, a full planning application is made due to the restrictive condition which would prevent the permitted development rights being relied upon. Nevertheless, were the LPA to remove the condition via a S73 application, the considerations listed for permitted development to be considered includes the main issues which are relevant to the consideration of a full application and importantly, this included noise from commercial premises.

The top floor of No. 31 was formerly used as part of the premises for the occupiers of the ground and first floor which is evident from the planning history and condition which relates to the D1 use. It is understood to now be surplus to the requirements of the business and has been subject to marketing of the top floor offices only for office/medical use. The application is accompanied by details of the marketing undertaken, this indicates that it has not been possible to secure a tenant for the top floor office space, with the main reasons cited as accessibility due to there being no lift and limitations of the floor area and facilities. This is potentially as a result of the top floor being offered in isolation to the ground and first floors which may be more attractive to future occupiers as a whole, however the vacancy of the premises is a material consideration in the overall planning balance.

It is acknowledged that the principle of conversion to residential use is broadly acceptable, having regard to both the permitted development rights and by current policy, which is generally supportive of residential uses in town and city centres. However, this acceptability would be subject to the consideration of the loss of the existing use and compatibility of the residential use with adjacent uses. The site is not within the primary or secondary shopping frontages and is also above ground floor level. The loss of office space or private health/medical practice rooms would not constitute grounds for refusal in principle. The site lies within Flood Zone 2, but as a change of use above ground floor level, there would be no requirement for the sequential test to be applied or specific flood risk measures to be considered.

In this case, it is considered that the primary issue for consideration of residential use is the impact on future residents resulting from noise from existing commercial premises, which is set out in the next section of the report.

Residential Amenity:

Core Policy 57 states that "A high standard of design is required in all new developments, including extensions, alterations, and changes of use of existing buildings... having regard to the **compatibility** of adjoining buildings and uses, the impact on the amenities of existing occupants, and ensuring that appropriate levels of amenity are achievable within the development itself, including the consideration of privacy, overshadowing, vibration, and pollution (e.g. light intrusion, noise, smoke, fumes, effluent, waste or litter)" (Emphasis added).

NPPF states that (p119) "Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions"; (p126) "The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work"; and (p130) "Planning policies and decisions should ensure that developments... f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users".

The consideration of noise, and its effects of living conditions, is also highlighted elsewhere in the NPPF, (p185), "Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should: a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life" and (p174): "Planning policies and decisions should contribute to and enhance the natural and local environment by... e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability".

The offices which are subject to this application are at second floor level in a purpose built office block. The units at ground and first floor below the site are used for health/medical service provision and the adjoining offices within the Chequers Court building remain in use as offices as far as can be ascertained from the external appearance and planning history. It is noted that there are air conditioning units immediately below the proposed bedroom window on the rear elevation and units at first and ground floor level. Further information provided confirms that the units immediately below the windows can be removed as they would not be required in the event of the change of use, although it has also been acknowledged that these would potentially need to be retained if the residential unit is served by mechanical extraction.

The units at first and ground floor level, associated with the continued occupancy by Total Foot Health, are currently used during opening hours (8.30 – 17.00 Monday – Friday) and switched off at other times, although this does not appear to be a condition of any permission and therefore this could be subject to change and would not be unreasonable in a commercial building.



Proposed bedroom window in relation to acoustic barrier to the Brown Street Venue

The main issue for amenity arises from the potential conflict with the existing commercial use of the immediately adjoining site at 29 Brown Street which includes an outside hospitality space to a music venue within the ground floor of the building at 29 Brown Street, and the existing nightclub which is also located in the upper floors and beyond the premises at No. 29, having its access from Milford Street. It is understood that the existing external staircase on the front wall of No. 29 serves the nightclub as an emergency exit. In granting the use of the adjoining land as an outside hospitality area following the demolition of a vacant building, the LPA had to give careful consideration to the potential for disturbance to the nearest neighbouring properties to ensure that the approval would not result in material harm from undue noise and disturbance from music and customers. The permission was subject to a requirement for an acoustic barrier fence to be erected on the boundary to minimise the potential for noise travelling through the gap between Nos. 29 and 31 Brown Street towards Charter Court following an acoustic report which recommended this would be necessary and effective. Critically, there were no immediately adjacent residential properties at the time of consideration. The acoustic barrier which has been erected would have no similar effect on preventing noise travelling from the outside venue upwards to the proposed bedroom window on the rear elevation of 31 Brown Street and it was not designed to do so. Additionally, surveyed noise levels would have been markedly different if measured at the boundary with 31 Brown Street rather than the nearest property in Charter Court. The agreed hours of use reflected the distance to those properties and the provision of a barrier and the effect that this would achieve on minimising nuisance. Consideration was not given to 31 Brown Street since it was not in residential unit.

The side elevation of 31 Brown Street has no windows, however the photographs above show that the rear elevation window is immediately above this area and this window is to serve a bedroom. Views can also be gained into this window from the external stair case from 29 Brown Street. The previous noise assessment was specific to the assessment of noise levels at properties further away from the Brown Street venue and does not assist in the assessment of the current proposal which is located significantly closer and directly adjoining the licenced premises. There can be no assumption that because the measures were considered to prevent noise travelling to Charter Court that these would be in any way effective in preventing noise impacts on the subject building due to its much closer proximity and window directly above the

acoustic barrier fence. The current operator of the venue advertises opening hours 5 days per week, Wednesday 16:00 - 22:00 Thursday 16:00 - 23:00 Friday 16:00 - 00:00 Saturday 12:00 - 00:00 and Sunday 12:00 - 18:00 and advertises various events of live music, DJ's and Karaoke. There is clearly potential for such events to cause disturbance to occupiers of a new residential unit with its bedroom window located immediately above the outdoor space and facing the entrance to the indoor venue.

Following the withdrawal of a previous application which included no site specific noise assessment of the relationship of the proposed residential unit or any suggested mitigation measures, the current application has been accompanied by a report entitled External Building Fabric Report prepared by an acoustic consultant on the behalf of the applicant. The Council's Public Protection Officer has reviewed the report and the response is set out in full above. The results of noise measurements taken at the property over one weekend in July are acknowledged. However there is disagreement between the public protection officer and the consultant on the standards that has been applied in this case.

Subsequent discussions have taken place in which it was suggested by the agent that the windows of the proposed residential unit could be kept closed during music events and mechanical ventilation relied upon. However, it is not known whether the retention of existing or positioning of new air conditioning units below the window of the bedroom would in itself result in any noise impacts since this has not been submitted as part of the application for consideration.

In further consideration of the suggestion for closed windows/mechanical ventilation, the Public Protection Officer has reiterated that "*The developer is the 'agent of change' in this situation, it is their responsibility to put forward measures that will mitigate their application to make it possible to proceed without detriment to the amenity of future residents and the viability of existing businesses. The assessment and proposed mitigation may have demonstrated that BS8233 levels can be achieved with windows closed but BS8233 levels are for steady continuous noise such as anonymous city noise, not for noise specifically from a licenced premises.*" It is evident from site inspection of the proximity of the bedroom window to the licenced premises that the nature of noise is likely to be markedly different to anonymous noise within a city location.

The LPA could not require the occupiers of the proposed apartment to close their windows via condition. Any future occupiers would retain the right to make a complaint about noise levels. The Environmental Protection Act places a legal duty on the Council to investigate complaints of alleged statutory nuisance and there is a general duty to survey the area for matters amounting to a statutory nuisance and to cause them to be abated, which would be likely to have significant impact on the ability of the adjacent premises to continue operating. The management of the premises have submitted an objection of their concerns which is set out earlier in the report.

Whilst future occupiers of the flat would likely be aware of the relationship when taking a tenancy or ownership, officers are advised by the Public Protection Officer that "*In statutory nuisance this is specifically dealt with under what is termed "coming to the nuisance". The House of Lords has long held just because someone moved into an area recently, does not mean they are prevented from making a complaint against a pre-existing activity. If it transpires*

that activity now amounts to a statutory nuisance then the source of the activity must abate the nuisance. With any approval of this application, the 'nature of the locality' will have changed and this is why the 'Agent of Change principle' is fundamental in protecting existing businesses. Long established night time venues in London & the Metropolitans that are household names up and down the country have been threatened with closure,, and some have closed as a result of this House of Lords precedent."

The consideration of the Council's duties under the Environmental Protection Act is not specifically a material planning consideration, however the issue of noise and compatibility of proposed uses with their immediate environs is embodied in development plan policy and the NPPF and it is therefore a material consideration whether the proposed use is likely to be affected by the existing use. Officers consider that whether existing commercial uses would be likely to be unduly restricted, or potentially discontinued, by the approval of a change of use is also a material consideration in the determination of this application.

It is evident from site inspection that the acoustic barrier which was installed to prevent noise travelling towards existing residential properties from the premises at 29 Brown Street, this would provide no protection for windows located directly above it. It is further evident from site inspection that there are no apparent measures which could be required by condition on any permission granted in respect of 31 Brown Street to reduce the potential for future occupiers to be affected by the normal business activity at the adjacent premises. It is also evident that, in the event of Noise Abatement Notice being served on the licenced premises, there are no obvious or reasonable attenuation measures that the management could resort to. Officers therefore consider it highly unlikely that the relative positioning of a bedroom window in relation to the existing licensed hospitality venues, including suggested measures for the windows to be kept closed with mechanical ventilation, would ensure that the proposed residential use and established commercial use on the adjoining sites would be compatible. It is therefore concluded that there would be clear conflict with the aims of Core Policy 57 and the NPPF.

Additionally, whilst the permitted development rights under Class Class MA are indicative of changes of use to residential being supported in principle through legislation, this is subject to the requirement for consideration of impacts of noise from commercial premises on the intended occupiers of the development. As such it is clearly recognised that the change of use of commercial properties to residential may not be acceptable in all circumstances. A general presumption in favour by planning policy and legislation does not indicate that the proposed use would be compatible with existing uses. On the advise of the Council's Public Protection Officer, the proposal and accompanying report does not satisfactorily demonstrate that the amenities of occupiers of the proposed apartment would not be subject to unacceptable noise and disturbance from established licenced premises.

Highways Impact:

The existing office block is served by a car parking to the rear. However, the application confirms that no space is allocated for the proposed residential accommodation. The highways officer has confirmed that as the site is located in the centre of Salisbury close to public transport links, services and amenities that future occupiers will require, a car free development is accepted and no highway objection is raised in this instance.

Heritage, Design and Visual Impact:

As submitted, there are no physical changes which would affect the exterior of this modern building and as such there is no visual or heritage impact.

Ecology:

This development falls within the catchment of the River Avon SAC and has potential to cause adverse effects alone or in combination with other developments through discharge of phosphorus in wastewater. The Council has agreed through a Memorandum of Understanding with Natural England and others that measures will be put in place to ensure all developments permitted between March 2018 and March 2026 are phosphorus neutral in perpetuity. To this end it is currently implementing a phosphorous mitigation strategy to offset all planned residential development, both sewered and non-sewered, permitted during this period. The strategy also covers non-residential development with the following exceptions:

- Development which generates wastewater as part of its commercial processes other than those associated directly with employees (e.g. vehicle wash, agricultural buildings for livestock, fish farms, laundries etc)
- Development which provides overnight accommodation for people whose main address is outside the catchment (e.g. tourist, business or student accommodation, etc)

Following the cabinets resolution on 5th January 2021, which secured a funding mechanism and strategic approach to mitigation, the Council has favourably concluded a generic appropriate assessment under the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019. This was endorsed by Natural England on 7 January 2021 and continues to be applicable. As this application for change of use to a single residential unit would fall within the scope of the mitigation strategy and generic appropriate assessment, it can be concluded that it will not lead to adverse impacts alone and in combination with other plans and projects on the River Avon SAC if approved.

10. Conclusion (Planning Balance):

In principle, the change of use of the existing second floor office suite to residential use can be considered acceptable in that the provision of an additional unit of residential accommodation which makes use of a commercial unit which is currently vacant would create some associated benefits in terms of a very modest contribution to housing supply in a sustainable location. However, the creation of habitable accommodation in a commercial area, whether through a full planning application or permitted development rights, is subject to consideration of the impacts of noise from commercial premises on the occupiers of the proposed accommodation. On the advice of the Council's Public Protection Officer, it is concluded that the proposed residential use is incompatible with existing commercial uses and that significant conflict is likely to arise from the close proximity of the proposed bedroom window to established commercial uses which include an open air hospitality area associated with a licenced music venue. The likelihood of regular disturbance from noise would result in an unacceptable standard of amenity for occupiers. The option of fixed glazing and mechanical ventilation would not be satisfactory means of achieving an adequate standard of amenity and the potential noise effects of mechanical ventilation which would necessarily be located immediately below a bedroom window have not been demonstrated. It is considered neither

possible nor reasonable to seek to limit the activity of an established licenced premises in order to secure an appropriate environment for a new residential use. The benefits of the re-use of office space accommodation and contribution to housing supply would not outweigh the amenity conflict and potential adverse economic impact on existing commercial uses.

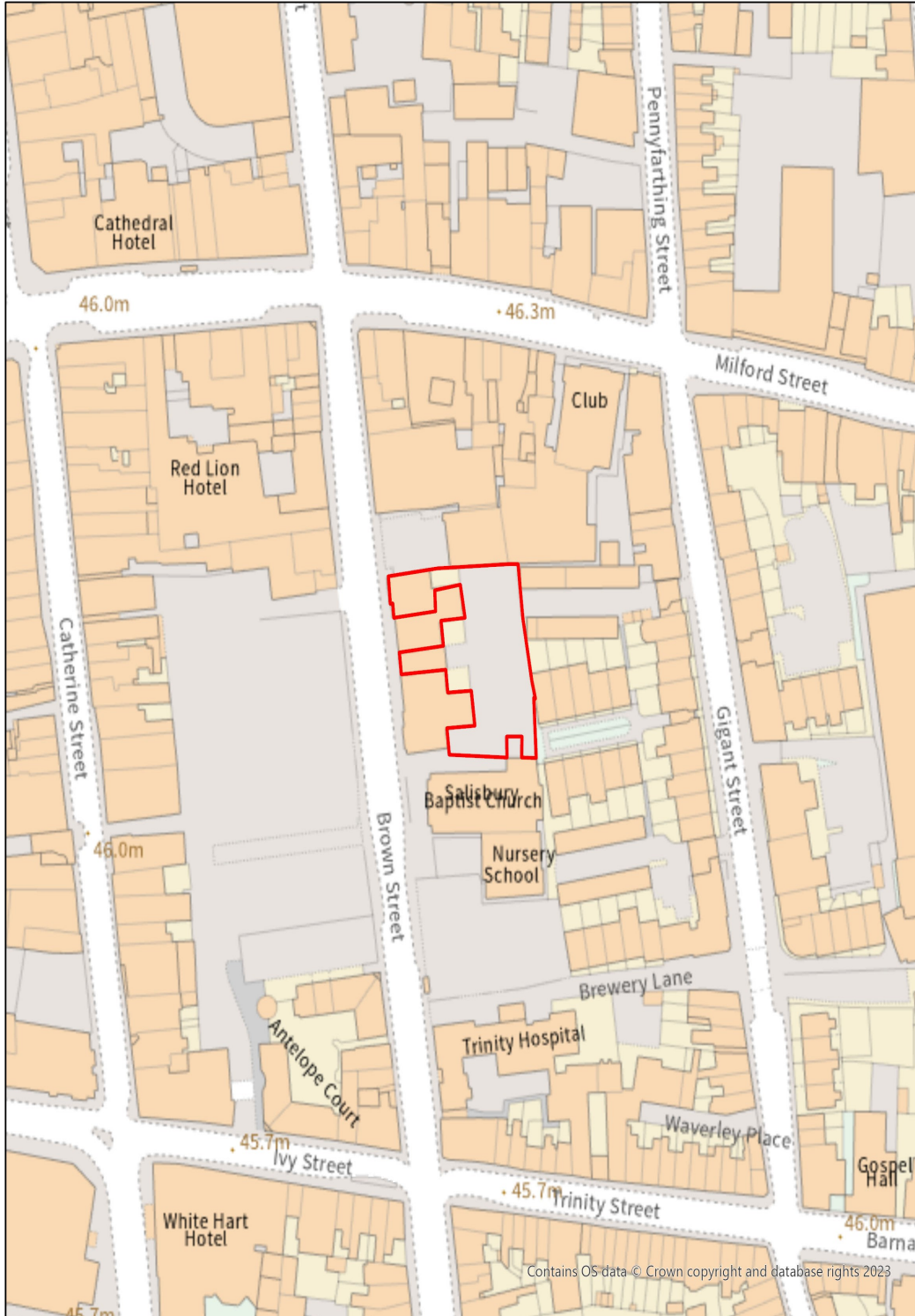
RECOMMENDATION

Refuse for the following reason:

Reason: (1)

1. The layout of the proposed residential unit would have a bedroom with a large window on the rear elevation of the building, positioned immediately above the noise reducing barrier to the adjacent outdoor hospitality venue and facing the existing licenced premises at 29 Brown Street which includes an external staircase and the proximity and relationship of the proposed residential use is considered incompatible with the nature of established commercial uses in the immediate vicinity of habitable rooms. The proposal has failed to satisfactorily demonstrate that future occupiers of the proposed residential accommodation would not be adversely affected by noise and disturbance from activity at established commercial premises and therefore fails to demonstrate a satisfactory standard of amenity, contrary to Policy CP57 of the Wiltshire Core Strategy and the aims of the National Planning Policy Framework, in particular paragraphs 119, 124, 126 and 130, which collectively require a high standard of amenity for existing and future occupiers.

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