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Report

Subject : PLANNING APPLICATION NO S/2006/1698 LAND BETWEEN NETHERAVON ROAD AND HIGH STREET DURRINGTON – Footpath link

Report to : Northern Area Committee

Date : 8th May 2008

Author : Adam Madge

1. Report Summary:

The report outlines the current situation in regard to planning application S/2006/1698 to ensure a pedestrian access along the Southern boundary of the site.

2. Main report:

Background

Members will recall that a report was brought before them on 13th March outlining that a strip of land exists between the current MOD owned land and the highway which prevents a pedestrian right of way being implemented between this site and the neighbouring highway. Members will recall that this was dealt with on the original application by way of seeking agreement from Wiltshire County Council highways that they would be prepared to compulsorily purchase this piece of land. Wiltshire County Council however recently responded stating that-

“I can confirm that the County Council, as the local highway authority, does not currently seek to compulsorily purchase land from the other estate in order to secure a footpath/cycle link between the two housing areas. There are obvious implications in terms of potential valuation issues. This link is highly desirable, but not operationally essential. We would like to see the link facilitated in due course, and may take a different view on the potential for CPO at a future date. At this stage we wish to secure the footpath/cycle route on the DE site to the boundary, even if this may appear to have no immediate purpose.”

In view of this following officers recommendations members voted to include a condition in any grant of planning permission to ensure a scheme was submitted to allow for this footpath link to be developed prior to plots 75 – 156 being commenced. In particular the condition was to read –

- 1) *No development shall be commenced on plots 75 – 156 until a scheme has been submitted to the local planning authority which secures a free and unencumbered pedestrian and cycle access from the new development to Maple Way on the neighbouring Pinckneys estate and a timetable for its provision. The pedestrian and cycle access shall be constructed in accordance with the approved scheme*

Reason: In the interests of good design and in order to ensure that a sustainable cycle and pedestrian link is available between the existing and proposed development as shown in the adopted development brief.

Following members resolution to impose this condition Defence Estates (the land owner) have written to the local authority and have stated that they are not willing to sign the S106 agreement relating to this site with the imposition of this condition (see letter attached). Officers therefore need to seek members agreement on how to proceed with the application.

Members have two options:

- 1 To refuse the application; or
- 2 To approve the application without the footpath link extending beyond the boundary.

Officers have previously stated that this link is, whilst highly desirable not absolutely essential to the development. The link would provide a much needed shortcut between this development and the neighbouring developments as a route to the nearest shops. In addition because the footpath is limited on the High street this would provide a safer pedestrian and cycle route. However in officers opinion whilst this route is highly desirable it is not essential for the development to proceed.

If no scheme is provided by the applicant to show how a route to the neighbouring roads can be achieved then the route would stop at the extent of the applicant's ownership of the land and would not progress and join with the neighbouring highway therefore meaning effectively it may not be able to be used.

In view of the fact that Wiltshire County Council have refused to purchase the land and the applicant will not sign the S106 agreement it is with reluctance that officers have little choice but to recommend that the application be approved without the link. Officers consider that as the route is not essential in planning terms and defence estates will not sign the legal agreement with a condition as resolved by members, that in this case the application be approved without the footpath link extending beyond the site boundary. However the benefits accruing from this development as a whole namely the affordable housing provision, the off site contributions, new allotments etc and the much needed housing outweigh the disbenefits of granting a development without this link. To refuse the application on this issue is considered to be disproportionate by officers and it is therefore it is reluctantly recommended that the footpath link be built up to the boundary with the assumption that as per WCC highways comments they may purchase the land at some point in the future.

3. Options for consideration:

- A) That planning permission for S/2006/1698 be refused on the grounds that inadequate provision has been made for a pedestrian access to the southern boundary and that no provision has been made for affordable housing, off site recreational provision, community contributions, highways improvements and education contributions.
- B) That planning permission be granted without the condition requiring the inclusion of the pedestrian link.

4. Consultation Undertaken: Full consultation in relation to planning application S/2006/1698

Recommendation(s): That option B, be followed and that planning permission be granted without the inclusion of the pedestrian link.

5. Background Papers:

None.

6. Implications:

- **Financial:** None
- **Legal:** None
- **Human Rights:** None
- **Personnel:** N/A
- **Community Safety:** N/A
- **Environmental:** None
- **Wards Affected:** Durrington



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Mr S Thorne
Head of Planning
Salisbury District Council
61 Wyndham Road
Salisbury, SP1 3AH

Salisbury District
Planning Department

Rec.	- 8 APR 2008
Acknowledged	
Copy to	Adam [Signature]
Action	

Your Ref

Our Ref
D/CDU/15/233/385
Date
7/4/08

Dear Mr Thorne

Application for Planning Permission for Redevelopment of Ministry of Defence Land at Durrington. Application No. S/2006/1698

The above application was considered by Salisbury District Council's Northern Area Committee on 1st March 2007 and the Committee resolved to grant planning permission.

The Decision Notice has not been issued because the section 106 remains unsigned. As you will be aware, there have been delays due to issues surrounding both the allotments and the neighbouring Mr Green's land, which forms part of the application. We believe that these issues have largely been dealt with and are not an impediment to the legal agreement.

However, we are concerned with the recent events in relation to the proposed footpath link from the subject site to Maple Way.

The Ministry appointed Barton Willmore to handle the application at the outset and it is our understanding that the footpath link was only ever an aspiration due mainly to the fact that the Ministry does not own the proposed footpath link. This is why it did not form part of the application. Your council was fully aware of this fact and it was agreed that the Ministry would show a footpath to the Maple Way boundary only. This is detailed in the development brief and on the application.

The resolution to grant consent in March 2007 did not require the footpath link to be created.

Then, in February 2008, the Salisbury District Council Case Officer decided to seek Committee approval for an extra condition that would prevent development of plots 75-156 unless the footpath was provided.

The effect of this condition is the creation of a ransom strip and this may have a value upward of £1,500,000.

After we received notice that your officer was seeking the imposition of the new condition, we discovered that the potential ransom strip was sold in December 2007 for £200. I attach an official copy of the register of title confirming this transaction.

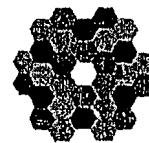
The main purpose of this letter is to ask you to submit a proposal to the May 2008 Committee not to impose the new (Grampian) condition and revert also to the original resolution decision which would require the construction of a footpath link to the Ministry boundary only.



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**Official copy
of register of
title**

Title number WT268022

Edition date 18.01.2008

- This official copy shows the entries on the register of title on 20 Mar 2008 at 09:41:02.
- This date must be quoted as the "search from date" in any official search application based on this copy.
- The date at the beginning of an entry is the date on which the entry was made in the register.
- Issued on 20 Mar 2008.
- Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original.
- For information about the register of title see Land Registry website www.landregistry.gov.uk or Land Registry Public Guide 1-A *guide to the information we keep and how you can obtain it*.
- This title is dealt with by Land Registry Weymouth Office.

A: Property Register

This register describes the land and estate comprised in the title

WILTSHIRE : SALISBURY

- 1 (18.01.2008) The Freehold land shown edged with red on the plan of the above title filed at the Registry and being Land at Maple Way, Durrington, Salisbury.

B: Proprietorship Register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

Title absolute

- 1 (18.01.2008) PROPRIETOR: JANICE POTTAGE of Rivermead, The Ham, Durrington, Salisbury, Wiltshire SP4 8HW and CLIFFORD SIMS of 18 Willow Drive, Durrington, Salisbury, Wiltshire SP4 8DE.
- 2 (18.01.2008) The price stated to have been paid on 6 December 2007 was £200.
- 3 (18.01.2008) RESTRICTION: No disposition by a sole proprietor of the registered estate (except a trust corporation) under which capital money arises is to be registered unless authorised by an order of the court.

C: Charges Register

This register contains any charges and other matters that affect the land.

- 1 (18.01.2008) A Conveyance of the land in this title and other land dated 10 January 1939 made between (1) Frank Deacon (Vendor) and (2) Francis Herbert Wort and others (Partners) contains the following covenants:-

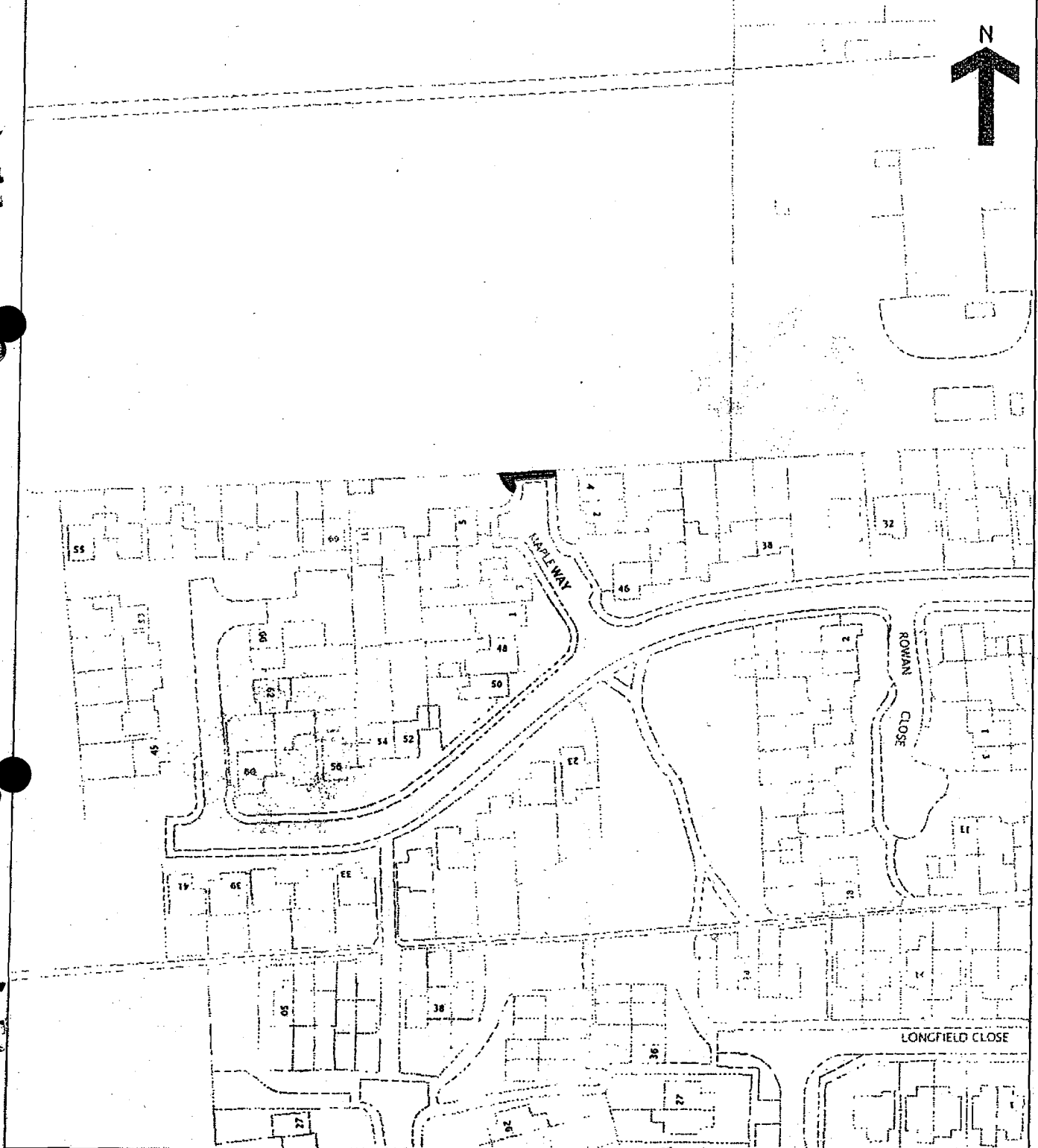
The Partners hereby covenant with the Vendor as follows that is to say:-

Land Registry
Official copy of
title plan

Title number WT268022
Ordnance Survey map reference SU1544NW
Scale 1:1250
Administrative area WILTSHIRE: SALISBURY



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PLAN 5