

# PLANNING COMMITTEE

3 January 2008

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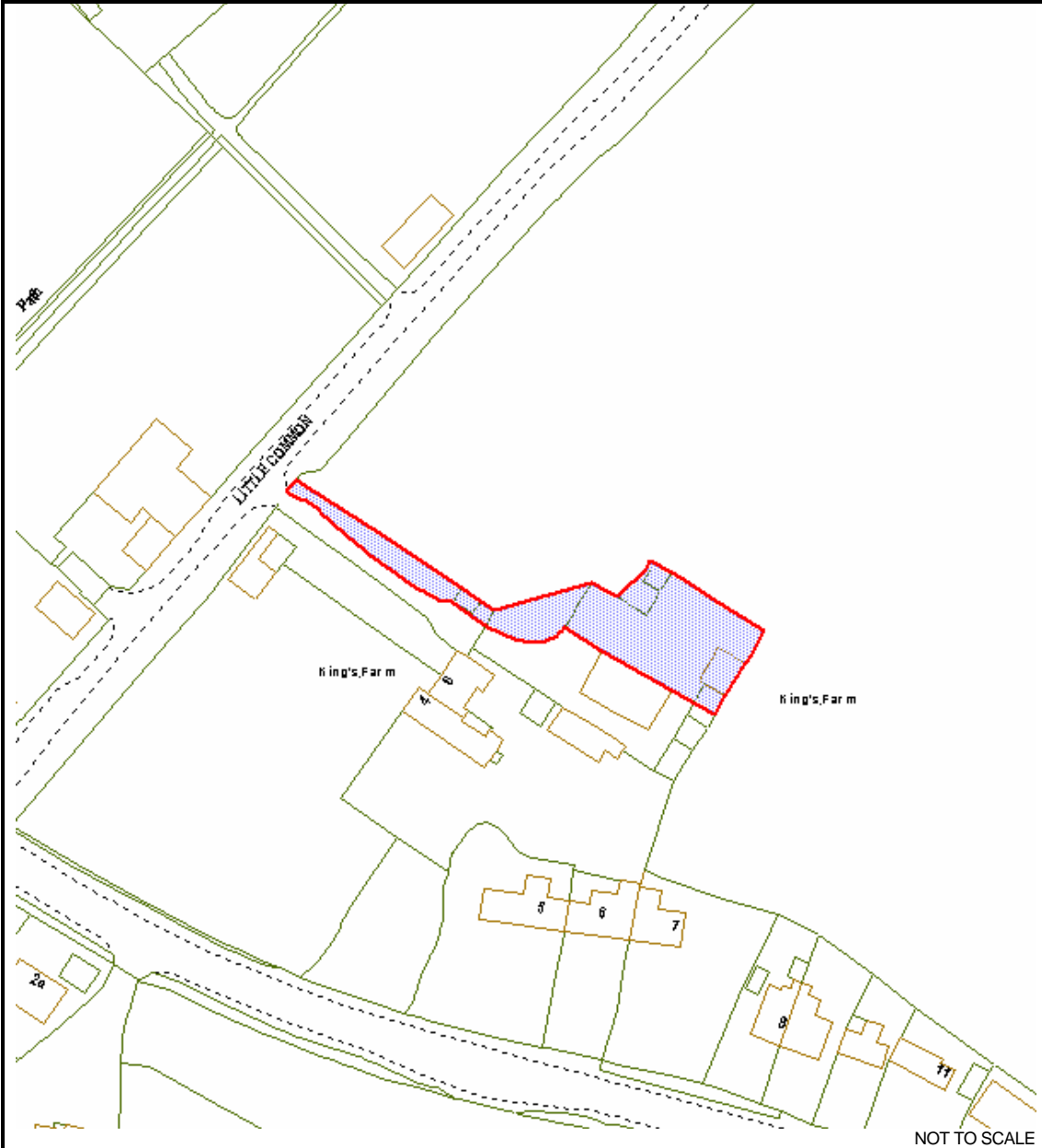
# PLANNING COMMITTEE

3 January 2008

ITEM NO: 01

APPLICATION NO: 07/03006/FUL

LOCATION: Land Adjacent Kings Farm Little Common  
Trowbridge Wiltshire



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SLA: 100022961

**01 Application: 07/03006/FUL**

**Site Address: Land Adjacent Kings Farm Little Common Trowbridge Wiltshire**

Parish: North Bradley

Ward: Trowbridge And North Bradley

Grid Reference 386013 155259

Application Type: Full Plan

Development: Enabling consent to build a detached house within the grounds of Kings Farm

Applicant Details: Mr R Hibbard  
7 The Crescent Westbury Wiltshire BA13 3HE

Agent Details: Mr Peter Grist  
Eversfield House Station Road Warminster Wiltshire BA12 9BP

Case Officer: Mr Russell Brown

Date Received: 18.09.2007

Expiry Date: 13.11.2007

**REASON(S) FOR RECOMMENDATION:**

**The proposed development with regard to the construction of a detached dwelling would not conform to the provisions of the Development Plan, but other material considerations justify the planning permission in this instance:**

**That the Council has a duty to protect the historic environment, the importance of repairing and restoring the listed building within this context, the fact that the listed building is on the Buildings at Risk Register, and that the proposed dwelling would provide the owner of the listed building with a resource to secure the future preservation of the listed building. There would be no harm to the historic environment and the proposals would not significantly harm any other interests of acknowledged importance.**

**RECOMMENDATION:**

**That planning permission be granted at a future date in the event of the Development Control Manager being satisfied that the Secretary of State remits the application to this Council for decision.**

**Condition(s):**

- 1 The development hereby permitted shall begin before the expiration of three years from the date of this permission.

REASON: In accordance with Section 91 of the Town & Country Planning Act 1990 as amended by Section 51 of the Planning & Compulsory Purchase Act 2004.

- 2 No work shall be commenced on this development until the listed building has been fully repaired and restored to the satisfaction of the Local Planning Authority and that those works to the listed building have been completed and all planning permissions and listed building consents and associated conditions have been fully complied with.

REASON: This permission is only acceptable in order to ensure the repair and restoration of the listed building at risk.

POLICY: West Wiltshire District Plan - 1st Alteration 2004 - Policy C28.

- 3 No development shall take place until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted 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: To ensure that the development harmonises with its setting.

POLICY: West Wiltshire District Plan - 1st Alteration 2004 - Policies C31A.

- 4 No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. This shall include indications of all existing trees and hedgerows on the land, and details of any to be retained.

REASON: To provide a satisfactory landscaped setting for the development.

POLICY: West Wiltshire District Plan - 1st Alteration 2004 - Policy C32.

- 5 All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

REASON: To provide a satisfactory landscaped setting for the development.

POLICY: West Wiltshire District Plan - 1st Alteration 2004 - Policy C32.

- 6 No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the building(s) is/are occupied or in accordance with a timetable agreed in writing with the Local Planning Authority. Development shall be carried out in accordance with the approved details.

REASON: To ensure the appearance of the development is satisfactory.

POLICY: West Wiltshire District Plan - 1st Alteration 2004 - Policy C32.

- 7 Contaminated water shall not be discharged to any stream, watercourse or underground strata, whether direct or via soakaways.

REASON: To minimise the risk of pollution of the water environment.

POLICY: West Wiltshire District Plan - 1st Alteration - Policy U4.

- 8 The development hereby permitted shall not be commenced until surface water drainage works have been carried out and completed in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

REASON: To ensure that the development can be adequately drained.

POLICY: West Wiltshire District Plan - 1st Alteration - Policy U2.

- 9 The development hereby permitted shall not be occupied until works for the disposal of sewage have been provided on site to serve the development hereby permitted, in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

REASON: To ensure that the development can be adequately drained.

POLICY: West Wiltshire District Plan - 1st Alteration - Policy U1A.

## **COMMITTEE REPORT**

### **APPLICATION DETAILS**

This application was deferred by committee on 6 December 2007 for a site visit.

This application has been brought to Committee as it is a departure from the Development Plan and in addition the Parish Council have objected and your officers are recommending approval.

This application is a resubmission of an application refused by the Planning Committee on 02/08/07. This application is identical but the agent has made the financial appraisal of the scheme fully available to members of the Planning Committee. The agent has stated that he has written to the members of the Planning Committee with a summary of the financial appraisal, inviting them to view the full appraisal.

This application was due to go before the last Planning Committee but was not put on the agenda as further unauthorised works had been carried out, calling into question the enabling argument that has been put forward. The applicants have submitted further justification to try to resolve these unauthorised works that have occurred recently, which is presented in full at the end of this report.

This is a full planning application for a new dwelling in the grounds of a Grade II listed building and would be an enabling form of development. This means that, if approved, the planning permission for this proposed house would be used to raise money to fund the repair and restoration of the listed building. The existing house is a former farmhouse and is a Grade II listed building that is also classified as a Building At Risk.

The listed building was identified as a Building At Risk as it is in urgent need of structural repair and restoration to prevent the loss of the building through collapse. The applicant has already undertaken some of the repair and restoration works to prevent a collapse, via separate listed building consent applications. Work has now stopped pending the outcome of this current application.

The site is on the edge of North Bradley outside of the Village Policy Limits. The nearest neighbouring property to the proposed dwelling would be the King's Farmhouse itself, the listed building at risk, 40 metres to the south west. The other neighbouring properties are over 40 metres to the south and over 100 metres to the west. To the north and east are agricultural fields.

The site of the proposed new dwelling is the eastern corner of the farmyard where a metal Dutch barn currently sits. The site is bounded by a 2m high wall (approximate as the height varies along the length), with sections of stone and brick. There is evidence on the ground of ranges of earlier buildings being attached to this wall.

The proposed dwelling has been revised to be a building more agricultural in appearance than a standard style of house. This includes a 2 storey section in the corner with single storey wings west and south, the south wing being separate and attached by an open link. The building would utilise the boundary wall as the rear wall of the property.

The fenestration is rural in form and appearance and the building would be built in natural stone, with some timber boarding, and a clay tile roof.

The access to the property would be along the existing drive and the property would have its own parking area. A collapsed historic structure would be rebuilt as a garage.

The driveway exits onto Little Common which is a dead-end road that serves a small number of dwellings. Little Common then exits onto Westbury Road which is a C class road.

There are no planning policies relating to enabling development hence this application is a departure from the Development Plan. The proposal falls outside of the standard Policy requirements and must be viewed as an exception to the Policies and must be justified accordingly.

The justification that has been submitted in this case is that the repair works to the listed building on site will cost more than the ultimate value of the restored listed building due to the amount of work that needs to be done and the specialist nature of the work involved. A financial appraisal has been submitted to confirm this.

## **CONSTRAINTS**

Grade II listed building.

Building At Risk.

Outside Village Policy Limits – Development in the open countryside.

## **POLICIES**

PPG15 – Planning and the Historic Environment

Wiltshire and Swindon Structure Plan 2011

HE7 – Conservation Areas and Listed Buildings

West Wiltshire District Plan 1st Alteration 2004

C26 – Maintenance of Buildings

C28 – Alterations to Listed Buildings

C31a – Design

C38 – Nuisance

H19 – Development in Open Countryside

PPS1 – Delivering Sustainable Development (Jan 2005)

Planning System – General Principles (Jan 2005)

## **RELEVANT PLANNING HISTORY**

00/00499/LBC – Temporary works including reduce height of chimneys, installation of supports and protection – Consent 03.05.2000

06/02432/LBC – Removal of existing roof tiles and battens (store tiles), dismantle defective boundary walls (store bricks), removal of external render to expose timber frame and walls, removal of internal plaster to all external walls only to expose timber frame and walls – Consent 02.10.2006

06/02946/LBC – Repairs/restoration of timber framed structure and demolition of dangerous single storey structure to rear – Withdrawn 24.01.2007

06/03765/FUL – Mobile home (temporary for 3 years during renovation of house) – Permission 22.01.2007

07/00211/LBC – Restoration and repair of roof and building – Consent 24.04.2007

## **SITE VISIT / STATUTORY SITE NOTICES**

Site notices were attached to the front fence. Various site visits have been undertaken. The siting of the proposed dwelling was noted and its relationship to neighbouring properties, the listed building and the village was assessed.

## **CONSULTATIONS**

*Parish/Town Council :*

*North Bradley Parish Council*

“Objections were raised as this contravenes the Policy Limits of the Rural Buffer Zone, and it is considered that if this application is allowed then this will set a precedent for further development within this area.”

*External :*

*Highway Authority*

“The proposed house is sited outside the Village Policy Limit, therefore, I recommend that this application be refused on highway grounds for the following reason:  
The proposal, located remote from services, employment opportunities and being unlikely to be well served by public transport, is contrary to the key aims of Planning Policy Guidance Note 13 which seeks to reduce growth in the length and number of motorized journeys”

*Wiltshire Wildlife Trust*

They note that there is the presence of Great Crested Newts in the area. They have supplied an informative for their protection that should be attached to any permission.

*Wessex Water*

No objection subject to satisfactory arrangements and agreement of connections.

*Environment Agency*

No comments have been received on this application but they stated on the previous application that they had no comments to make.

*Internal :*

*Planning Policy*

“The application site is located outside adopted village policy limits within countryside and is therefore, in planning policy terms, located in an area where a new dwelling would not be acceptable.

Listed building policies allow, in special circumstances, for the possible relaxation of other planning policies to secure the retention of a listed building provided that the proposal would not be detrimental to the local environment or to the character of the building.

In this case I cannot see that there are special circumstances that justify relaxing such a fundamental local plan policy. Kings Farmhouse has previously been clearly identified as a building at risk requiring substantial investment. The costs should have been properly taken account of in determining the purchase price for the property and I see no evidence that exceptional costs that could not have been reasonably expected at the initial stage have subsequently come to light.

Policy Recommendation:

Unacceptable in policy terms.”

*Conservation Officer*

"I am grateful to have been invited to provide views on this case given the serious nature of the "building at risk" on this site and the sensitivity surrounding the listed building's future and how this scheme impacts upon the Policy requirements for this area.

The normal policy for this area is stated by the Planning Policy Officer who is clearly mindful of the condition of the principle listed building on the site but considers that the justification for the enabling development put forward is not robust enough to allow this proposal to go ahead. It should be noted however, that the full costs of this restoration could not have been known when it was first purchased by the current owner.

The local parish council are concerned by the precedence that this scheme may set. It is therefore necessary to identify any aspects of this case that can demonstrate how this is an exceptional case that demands extraordinary treatment in order to secure the long- term future of this listed building.

As Members will be aware this property has been a listed building at risk caused by deliberate neglect by the previous owner for many years. Indeed the scaffold that has been in place now since 2000 has become a landmark in this part of the village and is detrimental to the rural character of the settlement. However, it has been a necessary evil in order to prevent the building from deteriorating to any major extent from those years of neglect. Although the front part of the property was protected by scaffold, the rear section had not been protected in the same way as the owner had been living in this section. Consequently, it had not been possible to fully inspect the building until the owner left. It was at this stage that it was realised that parts of the building had collapsed and were inaccessible and that a full appreciation of the costs that may be incurred in repairing the structure was not possible until full access was achieved. This was only achieved after the building came into new ownership and contractors were able to get on site to examine the structure properly. As a result the current owner has indeed experienced considerable costs to date but has also discovered that there have been a great deal more expense than had originally been anticipated. This is borne out by having started to renovate the building work on site has now slowed down and although the building is structurally sound, it is still not habitable.

The key to a viability argument is set out in the English Heritage report on "Enabling Development" which requires the following criteria to be met:

- \* The enabling development should not materially detract from the archaeological, architectural, historic, landscape or biodiversity interest of the listed building.
- \* The proposal should avoid fragmentation of the historic building.
- \* The development will secure the long term future of the historic building and its continued use for sympathetic purposes.
- \* The problems arise from the inherent needs of the historic building rather than from the circumstances of the present owner or the purchase price paid.
- \* There are no grants available from other sources.
- \* It can be demonstrated that the amount of enabling development is the minimum necessary to secure the future of the historic building and that its form minimises any potential harm to the listed building.
- \* The value or benefit of the survival of the listed building outweighs the long-term cost to the community of providing the enabling development.

This is supported by Policy C26 E of the WWDC Local Plan that states " The maintenance of buildings listed as being of architectural or historic interest and others within conservation areas will be sought through the application of the following:

E - Consideration of the possible relaxation of other planning policies in special circumstances, if this would secure the retention of a building of architectural or historic interest provided the proposal would not be detrimental to the local environment or to the character of the building".

In my opinion this is a case where enabling development is very much key to the long-term preservation of Kings Farmhouse. The case does deserve to be treated as an exceptional case that should allow for the relaxation of the normal policies that govern this area because;

- \* The proposed enabling development is low key and designed to be discreet replicating as much as possible the form of simple agricultural buildings that would have been historically associated with the farmhouse. Indeed there are other agricultural buildings in the vicinity of the proposed scheme that are poor in visual terms and do not provide an attractive setting to the listed building.



By removing the metal Dutch barn in order to allow the proposal, this should help to enhance the setting of the farmhouse and still retain an agricultural character to the site. This scheme will also allow for the retention of a traditional stone farmyard wall.

\* The work that has been carried out to the farmhouse to date has in the main been to keep the structure from collapsing in its entirety. The building was in such a poor state that the current owner had no alternative but to carry out these works ahead of this application for fear of losing parts of the main building altogether. The structure is now structurally safe but not habitable.

\* During the course of the basic structural repairs, many important architectural features have been uncovered that indicate that Kings Farmhouse was indeed a building of some significance and quality when it was first constructed and that it is also an almost unique example in this part of the District of a fine timber- frame building. Its importance to the understanding of the vernacular architecture of the area should therefore not be under-estimated and the reinstatement of the timber frame on the front elevation facing the main road will make a beneficial contribution to the local environment.

C26 E does allow for the relaxation of other policies, enabling development in exceptional circumstances. I am of a view that this is a case that merits such treatment and that as such should be recommended for approval.

Should permission be granted, I would advise that Listed Building Consent will be required for this proposal as the new development will be attached to the farmyard wall that forms the curtilage to the listed building. In addition I would recommend that a condition is attached to a permission that requires a detailed repair schedule of the farmyard wall to be submitted and approved. It may also need a structural engineer to check its structural stability before the development commences to ensure that it is properly supported whilst the development proceeds.”

#### *Neighbours :*

The application has been advertised by public notice and as being a departure from the Development Plan both in the local press and by site notice affixed to the site. Neighbour notification have also been undertaken.

There have been no responses.

#### **KEY ISSUES**

- the principle of allowing such development as a departure from the Development Plan.
- the effect of the proposal on the setting of the listed building; the character of the countryside; highways implications; and neighbouring amenities.
- planning history.

#### **OFFICER APPRAISAL**

The principle of this development

The listed building, King's Farmhouse, has been one of the most critical buildings at risk in this district in the last decade. In 2000 the Council gave a grant for scaffolding and supports for the collapsing building. The building was bought by its current owner, the applicant, in April 2006. At the time the building was in such a dangerous state that parts were inaccessible for inspection due to the risk of collapse.

Listed buildings in need of repair are always very difficult to assess in terms of the cost of the necessary works because by the nature of such works unforeseen problems commonly occur and the extent of the problems may be much worse than first thought. As parts of the King's Farmhouse were inaccessible for safety reasons it was impossible to accurately assess at the time of sale how extensive the problems were and therefore how much it would cost to repair and restore back to a habitable state.

Once work began, following the April 2006 sale, to stabilise the building and make it watertight the full extent of the necessary works became apparent and the works were far in excess of what was

previously imagined – and therefore much more costly. This is the nature of such a problematic building and often an unavoidable situation in assessing the extent of the problems.

The financial appraisal shows a deficit between the total cost of the repair project and the final market value of the listed building and that this deficit would be met by the value of this application site with planning permission for a dwelling as proposed.

Policy C26 of the West Wiltshire District Plan 1st Alteration 2004 does provide for the relaxation of other Planning Policies as stated above the Conservation Officer's comments. This is a case where there should be a relaxation of Policy H19 due to the particular circumstances of the historically justified aims of this proposed development.

#### Setting of the listed building

The proposed building has been designed to reflect a rural building, agricultural in nature and in keeping with the form of the previous structures on site. The detailed design of the fenestration and doors, with shallow arches over, contribute to the agricultural feel of the building as does the use of natural materials – stone and clay tiles. Additionally, existing features of the farm yard would be utilised for the construction – the rear boundary walls and the collapsed garage structure.

The scale of the building has been reduced in the revised plans to be more sympathetic to the relationship with the King's Farmhouse and to give the site more of a traditional feel.

With these factors in mind, the proposed dwelling would not result in the setting of the King's Farmhouse being significantly harmed. Notwithstanding this, the benefit to the listed building being brought back from a state of near collapse outweighs any potential impact on its setting.

#### The character of the countryside

In a similar manner as above the character of the countryside would not be harmed. This is a former farmyard site that has not been used as agriculture for many years. The proposed dwelling on this site would not result in any loss of agricultural land as the site is residential curtilage. The agricultural fields to the north and east would not be affected physically and the visual impact would be minimal due to the rural nature of the proposed building.

#### Highway matters

Although the Highway Authority has objected on grounds of sustainability, the site, although outside village policy limits, is located on the edge of the village and well related to it and to the King's Farmhouse.

The site is within 100 metres of the main road through North Bradley, which carries a bus route. Although the site is classed as 'open countryside', it is in fact a reasonable sustainable location due to its proximity to the rest of the village. Therefore the Highway Authority's comments in this instance are not supported, especially in view of the urgent need to repair and restore the historic listed building.

#### Neighbouring amenities

The proposed dwelling would not result in harm to neighbouring dwellings due to the distances between the relative properties. In addition the first floor windows of the proposed dwelling would be predominantly rooflights due to the reduced eaves height that would not result in overlooking. The only standard first floor window would not overlook any properties directly, and even obtusely the distances are over 100 metres which would negate any effect.

#### Planning History

Although this application was previously refused by Committee additional financial information has been provided in support of the proposals. Your officer's professional opinion is unchanged from

when it was previously recommended for permission, subject to it being referred to the Secretary of State as a Departure. Your officer's recommendation is therefore unchanged.

#### Other matters

To address the point raised by Parish Council that this proposal would lead to further development, this application is being proposed on the basis of allowing the listed building at risk to be brought back into use and safeguard its future and longevity. This is an individual case with a special justification for allowing a departure from the Development Plan. This would not result in further development as currently the surrounding land is outside the Village Policy Limits and therefore classified as Open Countryside.

The rebuilding of the collapse small curtilage structure into a garage would have a positive effect on the overall site. The existing materials would be reused and would need to be augmented by matching reclaimed materials.

#### **CONCLUSION**

The principles are well established within planning legislation that applications should be determined in accordance with the Development Plan.

Although the proposals with regard to the construction of a new dwelling represent development that would be contrary to Council Policy, there are material considerations which your officers consider should be taken into account which would outweigh the policy objections and justify permission.

These material considerations are that the Council firstly has a duty to protect the historic environment and in this case the listed building is on the Buildings at Risk Register and without further investment in the site the listed building would fall into further disrepair and eventually fall down.

The application would need to be referred to the Secretary of State as the proposals do not conform to the provisions of the Development Plan, but there are material considerations which indicate that permission should be granted in these exceptional circumstances.

#### **RECOMMENDATION**

Permission.

#### **Additional Information from the Applicant:**

"We were very surprised to learn that the application had been withdrawn from the agenda, without any discussion, on the basis of works continuing on site after the submission of the enabling application. The basis of the thinking was, we assume, that as work was proceeding on site then the applicant must have sufficient funds to complete the project. This is clearly not the case and the need to obtain the Enabling Consent to fund the continuation and completion of the project is essential and of paramount importance to secure the future of this vulnerable Listed Building.

A considerable amount of money has already been spent to restore the fabric of the building to a standard and finish acceptable to West Wiltshire District Council Planning and Conservation Department, Building Control and English Heritage.

The owner/applicant is therefore extremely anxious to protect his investment to date pending the determination of the application.

Certain areas were of particular concern given the pending on set of winter and the resultant inclement weather :-

- a) Roof structure.
- b) Wall structure ( timber frame element )
- c) External works and storm water.

The roof was therefore completed and the partial scaffold roof removed in order to fit all necessary flashing in order to protect the timber frame structure and roof from further weather damage. The scaffold roof had been in place for some time and was now starting to deteriorate and would have needed an expensive overhaul.

The timber frame structure has been constructed to the approval of all consultees and required the application of the external render and decoration to afford the required level of protection to avoid further frame and panel damage.

The lessons learnt last winter and the large volumes of water which resulted, tended to stay on top of the clay substrate and finally flood the building due to the internal floor level being lower than the external ground level. In order to avoid this happening again and damaging the new flooring and plastered walls etc. it was decided to install the external French drains and extend them into a pond to take the water away from the building for protection.

All of the above works were therefore deemed essential and the owner decided to obtain a further loan to carry out the works to protect his considerable financial expenditure to date. It was thought too much of risk to wait and therefore the works proceeded during the application consultation period. The builder actually agreed to carry out this work at a reduced rate due to the applicants current financial position.

As previously stated the external fabric and roof of the building are nearing completion but a considerable amount of interior work has yet to be undertaken and it would be a mistake to assume that the building was nearing completion.

Based upon the estimate of the construction works submitted as part of the Enabling Planning Application we have extracted the value of the outstanding work required to complete the project, which demonstrates the continued need for the additional funding to complete the restoration of this important building.

Interest	25000.00
Fees	10000.00
Electrics	20000.00
Plumbing and Heating	27000.00
Kitchen	22000.00
Fences and Walls	20000.00
Decorations	15000.00
Internal Doors	12000.00
Access	8000.00
<b>TOTAL</b>	<b>149000.00</b>

This figure does not of course include the repayment of any outstanding loans.

This clearly demonstrates the significant amount of funds still required to complete the project to the satisfaction of all concerned and provide a sustainable Listed Building.

We trust the above will provide suitable justification for you to reinstate your favourable recommendations and submit the application to the next Planning Committee for determination.”



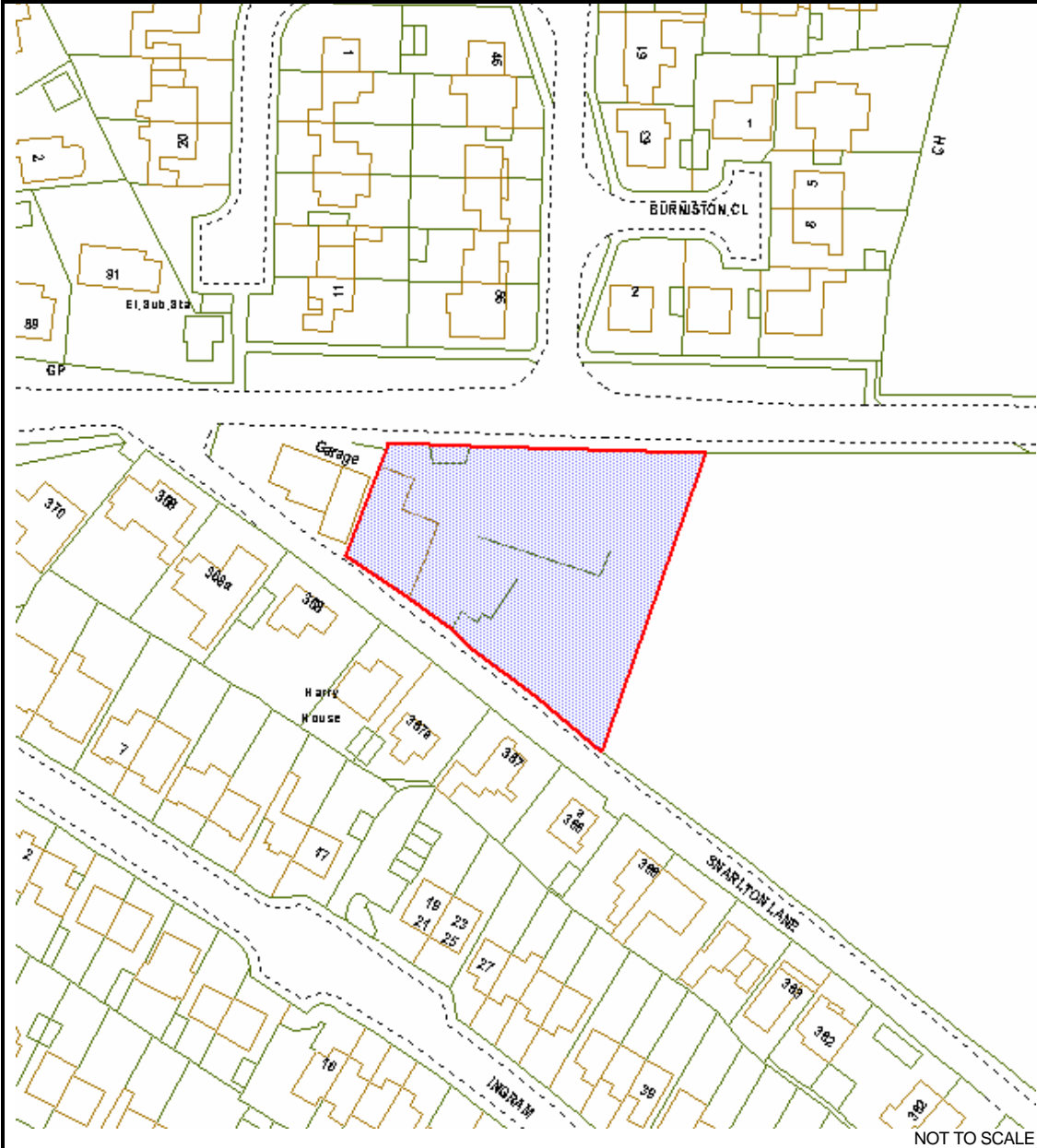
# PLANNING COMMITTEE

3 January 2008

ITEM NO: 02

APPLICATION NO: 07/00439/FUL

LOCATION: C N Vines Sandridge Road Garage Snarlton Lane  
Melksham Wiltshire



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SLA: 100022961

**02 Application: 07/00439/FUL**

**Site Address: C N Vines Sandridge Road Garage Snarlton Lane Melksham Wiltshire**

Parish: Melksham (Town) Ward: Melksham East  
Grid Reference 391545 164201  
Application Type: Full Plan  
Development: Demolition of existing building for proposed residential development of 16 dwellings (14 apartments and 2 flats) together with associated roads and services  
Applicant Details: Mr Tony Hemmings  
541 Outmarsh Semington Melksham Wiltshire BA14 6JX  
Agent Details: Brian Kirby Design  
FAO Mr B Kirby 9 Pipsmore Road Chippenham Wiltshire SN14 0LB  
Case Officer: Mrs Rosie MacGregor  
Date Received: 14.02.2007 Expiry Date: 16.05.2007

**REASON(S) FOR RECOMMENDATION:**

**The proposed development conforms to the Development Plan and there are no objections to it on planning grounds.**

**RECOMMENDATION:**

**Planning permission be granted at a future date in the event of the Development Control Manager being satisfied as to the prior completion of a Legal Agreement to secure:**

- 1) The provision of an index linked financial contribution towards the provision of public open space and recreation in the locality;**
- 2) The provision of an index linked financial contribution towards education needs in the area;**
- 4) The provision of an index linked financial contribution towards improvements to public transport in the vicinity of the site.**

**Condition(s):**

- 1 The development hereby permitted shall begin before the expiration of three years from the date of this permission.

REASON: In accordance with Section 91 of the Town & Country Planning Act 1990 as amended by Section 51 of the Planning & Compulsory Purchase Act 2004.

2 A schedule of the materials to be used in the external surfaces of the development, together with the submission of sample materials, shall be submitted to and approved by the Local Planning Authority prior to the commencement of the development. The works shall be carried out strictly in accordance with the approved materials.

REASON: To ensure that the development harmonises with its setting.

POLICY: West Wiltshire District Plan - 1st Alteration 2004 - Policy C31A.

3 The proposed estate road, footpaths, junctions, street lighting, sewers, drains, service routes, visibility splays and car parking areas shall be constructed and laid out in accordance with details to be submitted and approved in writing by the local planning authority prior to the commencement of the development. These details shall include plans and sections to show levels, gradients, materials and method of construction.

REASON: In the interests of highway safety.

POLICY: West Wiltshire District Plan - 1st Alteration 2004 - Policy H1.

4 The development hereby permitted shall not be occupied until the visibility splays shown on the approved plans and details have been provided on site with no obstruction to visibility. The visibility splays shall thereafter be maintained free of obstruction at all times.

REASON: In the interests of highway safety.

POLICY: West Wiltshire District Plan - 1st Alteration 2004 - Policy H1.

5 The development hereby permitted shall not be occupied until the footway to the front of the site has been widened as indicated on the approved plan and in accordance with details to be approved in writing by the local planning authority.

REASON: In the interests of highway safety.

POLICY: West Wiltshire District Plan - 1st Alteration 2004 - Policy H1.

6 Prior to the commencement of any development the site shall be subject to:

- i) site investigation and risk assessment works for chemical contamination;
- ii) works to remediate any chemical contamination identified, that is unacceptable in the context of the approved development and its environmental setting, as identified by the site investigation and risk assessment work;
- iii) remediation validation works

the above to be carried out to the satisfaction of the Local Planning Authority.

Site investigation works shall be carried out in line with the main procedural requirements of BS 1017:2001 - Investigation of Potentially Contaminated Sites - Code of Practice.

Where a requirement for quantitative risk assessment is identified, the assessment works shall be carried out in line with the requirements of the UK Contaminated Land Exposure Assessment (CLEA) guidelines, for assessment of human health risks. Also for ground and surface water risk assessment the Environment Agency R&D Publication 20 "Methodology for the Derivation of Remedial Targets for Soil and Groundwater to Protect Water Resources" protocol shall be utilised.

7 The development hereby permitted shall not begin until a noise impact assessment and scheme for protecting the proposed dwellings and their curtilages from road traffic noise has been submitted and approved by the Local Planning Authority. Any works which form part of the scheme approved by the Local Planning Authority shall be completed before any



permitted dwelling is first occupied, unless an alternative period is agreed in writing by the Local Planning Authority.

REASON: In order to safeguard the amenities of the area in which the development is located.

POLICY: West Wiltshire District Plan - 1st Alteration - Policies C36 & C38.

- 8 The development hereby permitted shall not be commenced until details of surface water drainage works have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out strictly in accordance with the approved details.

REASON: To ensure that the development can be adequately drained.

POLICY: West Wiltshire District Plan - 1st Alteration - Policy U2.

- 9 Details of the method of sewage disposal works proposed as part of the development scheme shall be submitted to and approved in writing by the local planning authority prior to the commencement of development. The works shall be completed strictly in accordance with the submitted and approved plans.

REASON: To ensure that the development can be adequately drained.

POLICY: West Wiltshire District Plan - 1st Alteration - Policy U1A.

- 10 No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. This shall include indications of all existing trees and hedgerows on the land, and details of any to be retained.

REASON: To provide a satisfactory landscaped setting for the development.

POLICY: West Wiltshire District Plan - 1st Alteration 2004 - Policy C32.

- 11 All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

REASON: To provide a satisfactory landscaped setting for the development.

POLICY: West Wiltshire District Plan - 1st Alteration 2004 - Policy C32.

- 12 No hedge shall be felled, uprooted or otherwise removed before, during or after the construction period, except where removal is indicated on the approved plans or on an approved landscaping scheme, or where removal is required to construct a road, footpath or cycleway in accordance with the approved plans.

REASON: To ensure that existing hedges of value are adequately protected.

- 13 No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the building(s) is/are occupied or in accordance with a timetable agreed in writing with the Local Planning Authority. Development shall be carried out in accordance with the approved details.

REASON: To ensure the appearance of the development is satisfactory.

POLICY: West Wiltshire District Plan - 1st Alteration 2004 - Policy C32.

**Note(s) to Applicant:**

- 1 You are advised that you should discuss the disposal of foul sewage flows from this site with Wessex Water who have advised that they would not be willing to allow the development to be undertaken unless the new drainage is connected to the proposed development known as East of Melksham which has not yet commenced on site. Wessex Water currently has capacity issues with the downstream sewers but that connection to the local foul sewer crossing the site would be possible since other sewers have been diverted as part of the East of Melksham development.

## **COMMITTEE REPORT**

### **APPLICATION DETAILS**

The application is brought to Committee because the Town and Parish Councils object contrary to your Officer's recommendation.

This is a full planning application for the demolition of an existing former garage building and the redevelopment of the site to provide 16 new dwellings.

The site is located immediately to the east of the town of Melksham adjoining the existing built-up area. It has an area of approximately 0.02 hectares and currently comprises a former garage site and an adjoining field with native hedgerows forming the boundary to Sandridge Road and Snarlton Lane. There is an existing vehicular access onto Sandridge Road and a pedestrian gate onto Snarlton Lane. Adjoining the site on the southern side of Snarlton Lane is a ribbon of existing residential development.

The proposals comprise three two storey blocks of residential units built from a mix of brick and render until concrete tiled roofs.

One of these, of rectangular shape, would be located on the Sandridge Road frontage and would comprise four 2-bedroomed flats. The second, of 'L' shaped format partially fronting Snarlton Lane, would comprise six flats of which four would be 2-bedroomed and two would be 1-bedroomed. The third, of an irregular 'L' shape and partially fronting Snarlton Lane, would comprise six two bedroomed flats.

The three blocks are shown arranged around a central landscaped courtyard area of triangular shape that would provide parking and turning together with bin storage and a water feature.

The proposed highway access would be from Sandridge Road with a pedestrian access leading on to Snarlton Lane. The existing hedgerows would be maintained except where visibility onto the highway is required.

An analysis of contaminated land was submitted with the application which concludes that there are contaminants in the soil but these do not pose significant risk to human health.

The application is supported by information relating to the former commercial use of part of the site which has been marketed without success.

The proposals have been revised on several occasions as part of the consultation process.

### **CONSTRAINTS**

The site is within the town boundary.

### **POLICIES**

## Wiltshire Structure Plan 2016

- DP4 Town and main settlements
- DP7 Housing in towns and main settlements

## West Wiltshire District Plan - 1st Alteration 2004

- H1 Further Housing Development in Towns
- H2 Affordable Housing
- H6 Land east of Melksham
- H24 New housing design
- C1 The countryside
- C31A Design
- C32 Landscaping
- R4 Open space and new housing developments
- T10 Parking
- I2 The Arts

## Supplementary Planning Guidance

- SPG Residential Design Guide
- SPG Affordable Housing
- SPG Open Space provision in new housing developments

- PPS1 Delivering sustainable development
- PPS3 Housing

## RELEVANT PLANNING HISTORY

None.

## SITE VISIT / STATUTORY SITE NOTICES

A site visit was made on 1 March 2007 and a site notice displayed on the same date and neighbours were notified by letter.

## KEY ISSUES

Design and density  
Neighbouring amenity  
Highway Access and Safety  
Loss of employment floor space

## CONSULTATIONS

*Parish/Town Council :*

MELKSHAM WITHOUT PARISH COUNCIL: On commenting on the original proposals:-

'While this application is for the Melksham Town parish, the Parish Council wishes to comment as it does affect adversely residents living in Melksham Without. The Parish Council is concerned that the proposed flats intrude on the privacy of some established dwellings in Snarlton Lane. For this reason, the Council strongly objects to the proposed removal of the established hedgerow along part of Snarlton Lane which does provide some important screening. During public meetings about the proposed new 750 units east of Melksham, Snarlton Lane residents were assured that the new 750 house development would not in any way intrude or alter the character of the Lane which is an ancient drover's road. Since this development adjoins the site for the larger development east of Melksham, the same principles should be applied here. It should be linked in with the proposed large new development and any access should be via the large development site and not directly on to the main A3102. Otherwise it may cause highway hazard and could lead to conflict with the nearby planned new roundabout for A31 02. The application map gives a

misleading impression that cars can pass comfortably in Snarlton Lane when in fact there are already serious highway congestion and parking problems in Snarlton Lane because it is so narrow. In view of this, all parking and turning for this development needs to be provided within the site, using the same access which is planned for the larger new development. In summary, this development needs to be properly linked in to the larger new development planned for the future.'

On commenting on revised proposals:-

'The Council would reiterate their previous comments but would emphasise most strongly that the proposed removal of the established hedgerow should be fully retained. They would again emphasize that the entrance should not be onto the main A3102 but should be through new development.'

On commenting further:-

'The council welcome the improvement in the revised plans but wish to reiterate that there should definitely not be an access into Snarlton Lane as there are traffic problems with parked vehicles. Additional parking in Snarlton Lane would overburden this lane. The hedge should be retained in totality with no pedestrian or vehicle access. They ask that the hedge be refurbished and enhanced.'

On commenting finally:-

'Your Council will already be aware of local concern from Snarlton Lane residents that the above proposed development should not have a pedestrian access into Snarlton Lane. Residents are worried that because Snarlton Lane is so narrow, visibility is poor and there are no footpaths along the edge there is a real danger that emerging pedestrians could be knocked down. The proposed pedestrian access involves removing part of a mature hedgerow along the Lane.'

In the last few days, a Snarlton Lane resident brought in a copy of a letter from a WCC Officer to the Planning Officer, which indicates a change of view on the part of County Highways. Previously he has insisted there should be pedestrian access but after meeting with residents on site, he is withdrawing this stipulation. As this is a town application I am enclosing a copy of his letter in case you did not receive one.

The Snarlton Lane resident was also very upset to report that, one night last week, the section of hedgerow where the access was proposed, was actually cut down during the night. It seems the applicant is trying to force the issue against the will of the local community.

Melksham Without Council is very sensitive to the fact that this is a town application and so has asked me to let you know the current situation, rather than take matters up direct with the Planning Department. However my councillors are concerned that this development is being promoted separately from other scheduled development on the East of Melksham site. It is felt that really it needs to be interlinked with planning proposals for the adjacent site, so that there is a safe pedestrian access, away from main roads, down to the proposed new school, without the access having to be made through the hedgerow into Snarlton Lane itself. Residents have always been assured by other developers that Snarlton Lane will remain as it is.

My Council is unhappy that the applicant is acting in an unacceptable way, without any regard for the views of Snarlton Lane residents, the preservation of the old hedgerow or the need to interlink with other planned development.

I trust this additional information may be useful to your Council.'

MELKSHAM TOWN COUNCIL: On commenting on the original proposals:-

'Objection to removal of natural hedge line and visual gap - Proposals will remove ancient hedgerow and abundant wildlife, building dwellings which will obscure views of the local countryside. (reference policies - HI-E: protection of nature conservation interests, H6: retention of important existing trees and hedgerows, C32: protection of existing trees, hedges and other natural features).

Objection due to new build being out of keeping with the area and a lack of attention to massing and scale – 3 storey buildings overshadowing existing 2 storey buildings (reference policies – C31a: paying attention to proportion, composition, form, massing and scale; H1a: design considerations are satisfactory and in keeping with the character of the surrounding area; H24c: scale, massing and height of dwellings which does not detract from important views).

Objection regarding highways issues - proposed footpath designed to lead straight into oncoming traffic in Snarlton Lane, likely to cause danger to pedestrians and motorists (reference policies - H6-9: provision of traffic calming measures, TIO: parking to be limited to maximum standards).

Concern that there will be an increase in congestion due to future plans involving major roundabout and link road, within 100m of development and inadequate parking spaces per unit (reference policies - H6-9: provision of traffic calming measures, TIO: parking to be limited to maximum standards).

Concerns re: Flooding - Land identified has experienced flooding (reference policies - H1- Ca: disposal of surface water, U2: Surface water drainage).

Concern regarding the lack of amenities/small gardens (reference policy - R4: provision of public open space with regards to new housing developments).

Concern regarding increased nuisance and anti-social behaviour Proposed footpath will create area for youths to congregate/likely increase in anti-social behaviour (reference policy - C38: proposals not permitted which would cause nuisance to neighbouring properties).

The Town council also questioned the density of the site, a lack of information regarding building materials to be used - will they be sympathetic to the surrounding area? Used to break up massing? (Planning policy H1a - as above). The need for 'Secure by Design' to be considered and that the development of area using piece-meal approach, not taking into consideration the level of amenities, social housing, etc, for residents.'

On commenting on revised proposals:-

'Councillors welcomed the retaining of the hedgerow and the removal of the public area but reiterated their previous concerns regarding this development.

Councillors also wished to emphasise the following points:

- 1) That no changes have been made to the revised plans to alleviate their concerns over the height of the buildings and to break up the massing.
- 2) Councillors cannot understand why the pedestrian access to Snarlton Lane needs to be there because Snarlton Lane is a road that doesn't lead anywhere.
- 3) That there appears to be a piecemeal approach to development in this area and that this development should be part of the design brief for the East of Melksham development.'

On commenting further:-

'Councillors objected due to the part removal of the hedge along Snarlton Lane and its impact on health and safety for motorists and pedestrians using this as access. Councillors requested that any further revisions include the redesign of the L-shaped block of housing and associated parking.'

On commenting finally:-

'The Town Council's previous objections still stand. The addition of a safety barrier for the pedestrian access does not alleviate their concerns. The Town Council feel there should be no pedestrian access at all into Snarlton Lane because of the safety issue.

It was pointed out that Planning Policy T12 states new developments will be expected to provide a good network within the site connecting to the existing footpath network within the area. There is no footpath this end of Snarlton Lane to link to. Councillors agreed to add T12 to the objections already submitted.'

*External :*

HIGHWAY AUTHORITY: The amended plan incorporates the changes requested previously and therefore no highway objection is raised subject to conditions.

The developer shall enter into a Section 106 Agreement to secure contributions for improvements to public transport in the vicinity of the site; these contributions shall be index-linked.

The highway authority has since advised that they have met on site with some of the residents of Sandridge Lane, who wanted to express their concerns about the approach the highway authority has taken in relation to the planning application. 'In particular they articulated their views about the potential adverse affects of the proposed new pedestrian link between the proposed site and the lane. They perceive the main threats as:-

A dangerous situation for pedestrians approaching the lane from the proposed site, because of the restricted visibility caused by the hedgeline, (which, I understand, is to be retained much in its current form), and the necessity for vehicles to pass very close to the hedge to pass parked and opposing traffic.

The possibility of the link encouraging both residents and visitors to park in the lane to take direct access into the site; this situation being compounded by the provision of only 1.5 spaces per dwelling, which might be an under-provision measured against future demand.

The link encouraging pedestrian movement away from the more formalised crossing points in the vicinity of the double mini-roundabout junction.

They also suggested that there is no need for the link, as adequate alternative routes exist for pedestrians.

The highway authority has taken a position from the outset that a footpath link should be provided in order to enhance the accessibility of the site for pedestrian movement, facilitating the shortest route for those trips to, from and through the proposed site, that require access via the lane.

It acknowledges the concerns of the residents, and does not disagree that they are justified to some extent. Although the highway authority still believes that accessibility is an important consideration for the site, and that the link should be provided, there are also potential disadvantages, as outlined by the residents, and the matter is therefore one of balance and judgement. It would not wish to pursue the line that the footpath link was an absolute essential element of the scheme, the absence of which would lead to a recommendation of refusal by the highway authority.'

EDUCATION OFFICER: Response awaited.

ENVIRONMENT AGENCY: No objections in principle. The site overlies an Unproductive Aquifer, as defined by the Environment Agency's Groundwater Protection: Policy and Practice. There are no surface water interests identified on the available Ordnance Survey maps of the district. Therefore the risk to controlled waters from the proposed development is considered to be low.

WESSEX WATER: No objection in principle subject to conditions/informatives.

*Internal :*

PLANNING POLICY:

'On the Proposals Map the site is partly within Melksham town policy limits and partly within the H6 housing allocation. However, the H6 allocation is being comprehensively planned and has not included this site within its boundaries. I therefore believe that the most sensible way forward would be for this site to be considered against the criteria contained within policy H1. The principle of residential development is therefore accepted, subject to receiving justification for the loss of employment land, in form of evidence that an adequate supply of employment land remains within the local area.

The development of the site at 64 dwellings to the hectare is relatively high, given its current edge of town location, but the adjacent H6 development will extend the urban area of Melksham to the extent that this site will become, in effect, an infill site within the built up area, and therefore a density of this nature would not be inappropriate.

The development requires children's play provision, either on site or as an off site contribution and a contribution to off site sports provision. I note the location of the proposed on site provision and would recommend seeking the views of leisure and open space officers as to the appropriateness of the provision.

Policy Recommendation:

Acceptable in policy terms, subject to receiving justification of the loss of employment land.'

URBAN DESIGNER AND CONSERVATION ASSISTANT: Generally the revised design is more cohesive than the previous and the applicant has made a number of welcome changes.

LAND DRAINAGE AND CIVIL ENGINEER: No objection.

ENVIRONMENTAL HEALTH: Recommend approval subject to conditions to overcome ground contamination and road traffic noise.

LEISURE MANAGER: Seeking a financial contribution to play equipment in the vicinity.

*Neighbours :*

Objections to the proposals have been received from the occupiers of a total of 28 neighbouring dwellings on the following grounds:

On commenting on the original proposals the occupiers of 9 neighbouring dwellings:-

- Too many dwellings in such a small area.
- Flats are not appropriate in this area.
- Low cost housing likely to create a slum and result in an increase in petty crime.
- A small development of 4 bungalows might be acceptable but this is out of keeping with the area and density is too high.
- The design is out of character with the area.
- The physical dominance of the buildings closest to Snarlton Lane will swamp existing houses.
- Loss of light, views and privacy to existing residents.
- Lack of sufficient parking provision.
- Snarlton Lane will be used for parking creating problems on this narrow lane without any pavements.
- Harm to highway safety.
- Ancient hedgerow would be destroyed.
- Impact on wildlife.
- Noise pollution, light pollution and carbon emissions from the additional dwellings and traffic.
- The site contains oil storage tanks underground and may be contaminated from car repair works.
- Loss of employment.
- Will open the flood gates for even more housing.
- There are no jobs, insufficient doctors or dentists and not enough shops in Melksham and as such the development will encourage car use.
- There is no provision for sports.
- Lack of a play area for children.

- Destruction of a quiet rural area and impact on an historic.
- Potential for flooding and existing infrastructure is unable to cope.

The operator of the adjoining petrol station has no objection but is concerned that there may be issues arising out of siting residential units next to a petroleum installation. The presence of petroleum vapour within the hazardous zones around fuel pumps, tanks, fill points and vent pipes should be considered.

On commenting on revised plans the occupiers of 7 neighbouring dwellings reiterated their objections and more strongly oppose any form of access onto Snarlton Lane, a dead end and potential for overflow parking on that road and harm to highway safety.

On commenting on further revisions the occupiers of 7 neighbouring dwellings continue to object to any form of access onto Snarlton Lane and consider the application is out of character with the area.

The occupiers of 15 additional neighbouring dwellings make the same observations in objecting to the proposals.

The Member of Parliament for the area asks that points made by a neighbour are given careful consideration.

On commenting on the final revisions the occupiers of 1 additional neighbouring dwelling and 9 of those who previously objected further reiterate their objections with regard to the pedestrian access onto Snarlton Lane.

## **OFFICER APPRAISAL**

The site is located within the town boundary for Melksham and adjacent to the strategic development of Land East of Melksham.

The principle of residential development in this location is therefore be acceptable subject to compliance with detailed criteria as set out in Policy H1 of the West Wiltshire District Plan - 1st Alteration 2004. These criteria include the siting, layout and design considerations being satisfactory and in-keeping with the character of the area; the development not resulting in the loss of an open area important for recreation and amenity reasons; and the development providing safe and convenient connection to the existing pedestrian network and the highway.

Since the proposal does not meet the trigger of more than 25 new dwellings there is no requirement for affordable housing.

Although the density is relatively high, the proposals are for one and two bedroomed flats on two storeys which is always likely to result in higher density development than otherwise. It is not unusual for such developments to be at significantly higher densities than other forms of housing and given the advice contained within PPS3 no objection can be raised to the amount of development proposed.

Furthermore, the location of the site although currently on the edge of town adjoins the East of Melksham development which is due to commence in the near future. This will result in an additional 750 new dwellings, roads, a new primary school, playing fields, community hall and a local centre including retail development which will extend the urban area of Melksham well beyond its current boundaries.

The application site of only 16 dwellings should therefore be considered as effectively an infill development within the built up area. The East of Melksham development will include low, medium and high density development and in that context the relatively high density currently proposed would be appropriate.

It is considered that the design of the revised scheme is now acceptable. The reduction in storey heights from 3 to 2 storeys, re-orientation of the dwellings, revised design details and retention for



the most part of the hedgerows on the highway frontage are considered to be significant improvements.

A condition requiring the retention and reinforcement of the existing hedgerows, except at the points of access is considered appropriate, as is a condition requiring details of a hard and landscaping scheme.

The proposed siting and layout, fronting onto the highways on each side of the development, reflects the general mixed character and variety of different patterns of development within this part of Melksham.

In terms of amenity and the direct impact of the development on existing properties the dwellings likely to be most directly affected are immediately opposite the site to the south east on the opposite side of Snarlton Lane. It is acknowledged that there will be some small loss of amenity to the occupiers of these neighbouring dwelling but it would not be so significant as to justify a refusal of the application.

The proposed dwellings have now been set back from the highway frontage on both the Snarlton Lane and Sandridge Road frontages and it is considered that they are at sufficient distance from the existing dwellings to prevent any unacceptable level of overlooking or loss of privacy.

Snarlton Lane is of approximately 5 metres in width. The proposed dwellings which are not parallel with the road are set back from the edge of the highway by approximately 3 metres at the closest instance and approximately 6 metres at the furthest. The dwellings on the opposite side of the road also have a staggered open frontage with those closest to the highway set back approximately 4 metres from the highway and those furthest set back approximately 11 metres. Furthermore, the orientation of one block of flats is such that the principal habitable rooms overlook the central courtyard with only kitchens, hallways and second bedrooms facing Snarlton Lane. The orientation of the second block of flats is such that the windows to a bedroom and bathroom are those closest to the dwelling on the opposite side of the road.

The highway authority has no objection to the revised proposals.

The pedestrian access onto Snarlton Lane was firstly a requirement of the highway authority although it now states that and the matter is one of balance and judgement and that it would not wish to pursue the line that the footpath link was an absolute essential element of the scheme.

However, setting aside the highway arguments it is considered to be important in design terms as it also serves to provide a connection between this, the existing development in the area and proposed East of Melksham development. It creates permeability which is in accordance with the council's own design guidance as well as government advice and will provide a vital and sustainable link for pedestrians into the existing and proposed network of footpaths east of Melksham including the proposed Clackers Brook linear park and local centre. Furthermore, there is an existing gated field access onto Snarlton Lane which indicates that this lane has always been used in part for access into the site.

The views of the local residents have been considered but on balance this is out-weighed by the need to provide permeability and create sustainable communities where there is less reliance on the private car.

Part of the site was previously occupied as a garage for the repair, maintenance and sale of motor vehicles. The applicant has submitted details of marketing carried out by the previous owner since their previous tenants vacated the site to occupy premises in a commercial area closer to the town centre. The move took place in May 2006 and despite efforts to let the site on a commercial basis he was unable to find new tenants.

Whilst the loss of an employment site is regrettable it would appear that efforts were made to find a new tenant but these proved unsuccessful. A site for vehicle sales, repair and maintenance within a largely residential area is not ideal and there are vacant sites elsewhere within the town. It is considered that in these circumstances the loss of the employment site is justified.

Issues of potential ground contamination can be overcome by an appropriately worded condition.

There is nothing to suggest that the adjoining use of a petrol station would have any adverse impact on residents or vice versa. It is not unusual to have such facilities within residential areas and any issues arising out of the presence of petroleum vapour within the hazardous zones around fuel pumps, tanks, fill points and vent pipes fall under separate legislation.

There are requirements for commuted sum contributions to education and recreation and public open space in addition to the highway requirements.

## **RECOMMENDATION**

The site is within the town boundary for Melksham and adjacent to a major future housing allocation and the overall design is considered to be acceptable. Permission following a legal agreement/s to secure contributions to highway improvements, education, recreation and public open space would be acceptable within Council policy.



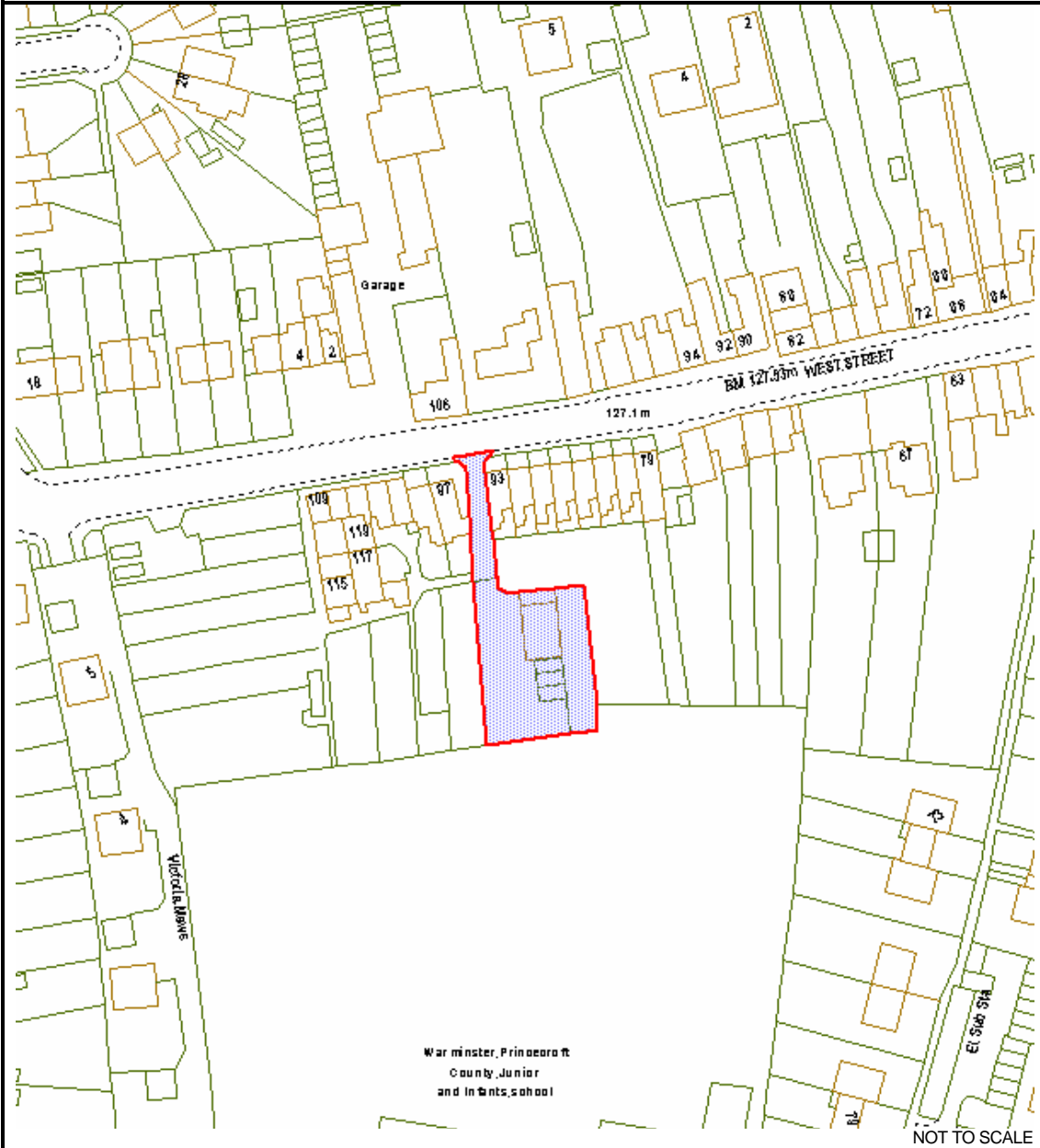
# PLANNING COMMITTEE

3 January 2008

ITEM NO: 03

APPLICATION NO: 07/03050/FUL

LOCATION: Rear Of 93 West Street Warminster Wiltshire



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Fax: 01225 770314  
[www.westwiltshire.gov.uk](http://www.westwiltshire.gov.uk)

SLA: 100022961

**03 Application: 07/03050/FUL**

**Site Address: Rear Of 93 West Street Warminster Wiltshire**

Parish: Warminster Ward: Warminster West  
Grid Reference 386349 144900  
Application Type: Full Plan  
Development: Demolish existing garages and construct 3 three storey terraced town houses  
Applicant Details: Rod Towler  
Chartered Architect 4 Rosenheim Rise Bratton Westbury Wiltshire  
Agent Details:  
Case Officer: Mr Matthew Perks  
Date Received: 24.09.2007 Expiry Date: 19.11.2007

**REASON(S) FOR RECOMMENDATION:**

**The proposed development conforms to the Development Plan and there are no objections to it on planning grounds.**

**RECOMMENDATION: Permission**

**Condition(s):**

- 1 The development hereby permitted shall begin before the expiration of three years from the date of this permission.

REASON: In accordance with Section 91 of the Town & Country Planning Act 1990 as amended by Section 51 of the Planning & Compulsory Purchase Act 2004.

- 2 No development shall take place until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted 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: To ensure that the development harmonises with its setting.

POLICY: West Wiltshire District Plan - 1st Alteration 2004 - Policies C31A.

- 3 The development hereby permitted shall not begin until a scheme to deal with any contamination of the site has been submitted to and approved by the Local Planning Authority. The scheme shall include an investigation and assessment to identify the extent of contamination, and the measures to be taken to avoid risk to the public or the environment when the site is developed which shall be implemented before the development begins. The scheme shall be carried out in accordance with the approved details.

REASON: In the interests of public health and safety.

POLICY: West Wiltshire District Plan - 1st Alteration - Policy C37.

- 4 No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. This shall include indications of all existing trees and hedgerows on the land, and details of any to be retained.

REASON: To provide a satisfactory landscaped setting for the development.

POLICY: West Wiltshire District Plan - 1st Alteration 2004 - Policy C32.

- 5 All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

REASON: To provide a satisfactory landscaped setting for the development.

POLICY: West Wiltshire District Plan - 1st Alteration 2004 - Policy C32.

- 6 The parking spaces shown on the approved plan, together with any access thereto, shall be provided concurrently with the development to which they relate.

REASON: To ensure that an adequate area for parking and/or servicing is available in the interests of highway safety.

POLICY: West Wiltshire District Plan - 1st Alteration - Policy T10.

- 7 Before the development hereby permitted is first occupied, the turning space shown on the approved plan shall be surfaced (not loose stone or gravel) to the satisfaction of the Local Planning Authority and maintained as such thereafter.

REASON: In the interests of highway safety.

- 8 The development hereby permitted shall not be commenced until surface water drainage works have been carried out and completed in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

REASON: To ensure that the development can be adequately drained.

POLICY: West Wiltshire District Plan - 1st Alteration - Policy U2.

- 9 The upstairs window in the eastern and western elevations shall be obscure glazed prior to the first occupation of the development hereby permitted and shall be maintained as such at all times thereafter.

REASON: In the interests of amenity and privacy.

POLICY: West Wiltshire District Plan - 1st Alteration - Policy C38.

**Note(s) to Applicant:**

- 1 The applicant is advised to contact Wessex Water (01225 526000) with regard to connection to water infrastructure and the possible need for an easement and/or diversion of an existing pipeline.

## **APPLICATION DETAILS**

This application is brought to Committee because Warminster Town Council has objected to the application and your officers recommend permission.

This is an application for full planning permission for the demolition of existing garages and the construction of 3 x three storey terraced town houses on land to the rear of 93 West Street, Warminster. The site is within town policy limits and the conservation area.

The application is a revision to application Ref 06/03741/FUL which was refused for the following reasons:

"1. The proposed change of use to residential would result in the loss of existing employment use contrary to Policy E5(i) of the West Wiltshire District Plan 1st Alteration, 2004 in that there is no justification to show that there is an adequate supply and mix of genuinely available employment land and premises in the vicinity.

2. The proposed development because of its location, size, scale and massing would result in a dominant form of development which would not preserve or enhance the character of the Warminster Conservation Area, contrary to Policies C17 and C18 of the West Wiltshire District Plan 1st Alteration 2004."

The application site of 750m<sup>2</sup> is currently occupied by a taxi servicing, repair and parking business. The revised proposal involves the demolition of an existing brick garage and office building, to be replaced by a terrace of 3 dwellings. The new building has been reduced in height relative to the previous application (from three storeys to two). Access would still be via the existing panhandle driveway of some 24m in length. Two parking spaces per dwelling are proposed. Materials include clay tiles, rendered walls and timber doors and fenestration. Primary elevations would face the rear of the properties fronting onto West Street at a distance of ±24m.

The application is accompanied by supporting documentation that includes information on the provision of an alternative site for Starline Taxis and available employment land elsewhere within Warminster.

## **CONSTRAINTS**

The site falls within Warminster Town Policy Limits, is currently employment land and lies within the Conservation Area.

## **POLICIES**

West Wiltshire District Plan 1st Alteration, 2004

C17 - Character and appearance of conservation areas  
C18 - New development in conservation areas  
C20 - Change of use in Conservation Areas  
C22 - Demolition in conservation areas  
C38 - Effects of development on neighbouring properties  
C31a - Design  
E5 - Loss of employment floorspace  
H1 - Housing development in towns  
T10 - Parking

PPS 3 - Housing

## **RELEVANT PLANNING HISTORY**

98/00987/OUT: Demolition of existing workshop building and erection of three detached dwellings and detached double garage : Refused : 13.07.1998

06/03741/FUL: Demolish existing garages and construct 3 three storey terraced town houses:  
Refused: 23.01.2007

## **SITE VISIT / STATUTORY SITE NOTICES**

The site visit was carried out on 02 October 2007, during which site notices were posted.

## **KEY ISSUES**

The only issue in this case relates to whether or not the reasons for refusal of application reference 06/03741/FUL have been overcome.

## **CONSULTATIONS**

*Parish/Town Council :*

Warminster Town Council

Objection on the grounds that the access is narrow and will cause serious highway issues.

## **STATUTORY CONSULTATIONS**

*External :*

Highway Authority

Recommends refusal on grounds of access onto West Street.

Wessex Water

No objection, but an easement may be required.

*Internal :*

Environmental Health

No objections or conditions.

Local Plan Section

No comments

Landscape Officer

No comments

Heritage Development Officer

No objections.

Economic Development

No comments

*Neighbours :*

Neighbours were notified of the proposal and a public notice was posted. No responses were received.

## **OFFICER APPRAISAL**



The plot of land is within the town policy limits of Warminster and as such new residential development is acceptable in principle subject to the criteria in policy H1 of the West Wiltshire District Plan 1st Alteration. The present use of the site is as a taxi servicing, repair and parking business, therefore the application site is considered in planning terms to contribute to the District's pool of previously developed (brownfield) land. PPS3 (Housing) inter alia encourages local authorities to provide a mix of accommodation types and development of housing should be focussed on the efficient use of previously developed land.

The comments of the highway authority and the Town Council are noted, and it is indeed the case that visibility is restricted at the access point and that the driveway is narrow. However, the previous refusal did not include a highway-related reason for refusal and one could not now be reasonably introduced. The previous report considered that the fall-back position on site (i.e. a taxi business) had the potential to deliver a greater number, frequency and irregular hour pattern of traffic onto and off of the site. Whilst the highway authority disputes the volumes provided in the supporting statement, the existing lawful use nevertheless has this potential.

#### Reason 1 of the previous refusal

The applicant has provided evidence from commercial agents advertising (at the time of the application) a number of light industrial and commercial sites. The documentation indicates that there is an availability of similar small scale light industrial/commercial sites within the Warminster Area and the wider surrounds. The taxi operator has furthermore reached agreement with Messrs Gibbs Transport to continue servicing operations from their Station Road workshop. It is considered that this information and the relocation of servicing activities addresses reason 1 of the previous refusal.

An additional consideration with regard to the current use of the site is the improvement to the surrounding residential and conservation area that would arise from the removal of the taxi business and unsightly buildings. This consideration adds weight to the acceptability of the proposal in this context.

#### Reason 2 of the previous refusal

The application would provide 3 x three storey terraced town houses and parking for two vehicles would be available for each of the dwellings. The building has been re-designed to reduce the ridge height to 7.9m. The elevations now reflect elements of the plain-fronted dwellings within the Conservation Area, with rear elevations also echoing aspects of the rear of the building to the south. The rear boundary of the site also forms part of the boundary to the Conservation Area. The building would be of rendered blockwork under clay tiles, with timber fenestration and doors. These materials would be acceptable in this setting. The building would not share the street scene with the existing structures in the Conservation Area, but would be fleetingly visible when passing the site access. The new design has overcome reason 2 of the previous refusal.

#### Other considerations in new design

The building would be orientated such that front upstairs windows would be a minimum of 26m from any neighbouring dwelling. No side-facing windows to habitable rooms are proposed, and the rear elevation would face the school grounds to the rear, beyond gardens of  $\pm 9.5$ m in depth. No new elements of harm to neighbouring amenity have therefore arisen as a result of the re-design.

In view of the above considerations, it is considered that the reasons for refusal of application 06/03741/FUL have been overcome. The changes to the design have not introduced any changes that would negatively impact neighbouring amenity.

### **RECOMMENDATION**

The application should be granted permission subject to appropriate conditions including an initial survey to determine whether or not the current use has resulted in contamination of the land.

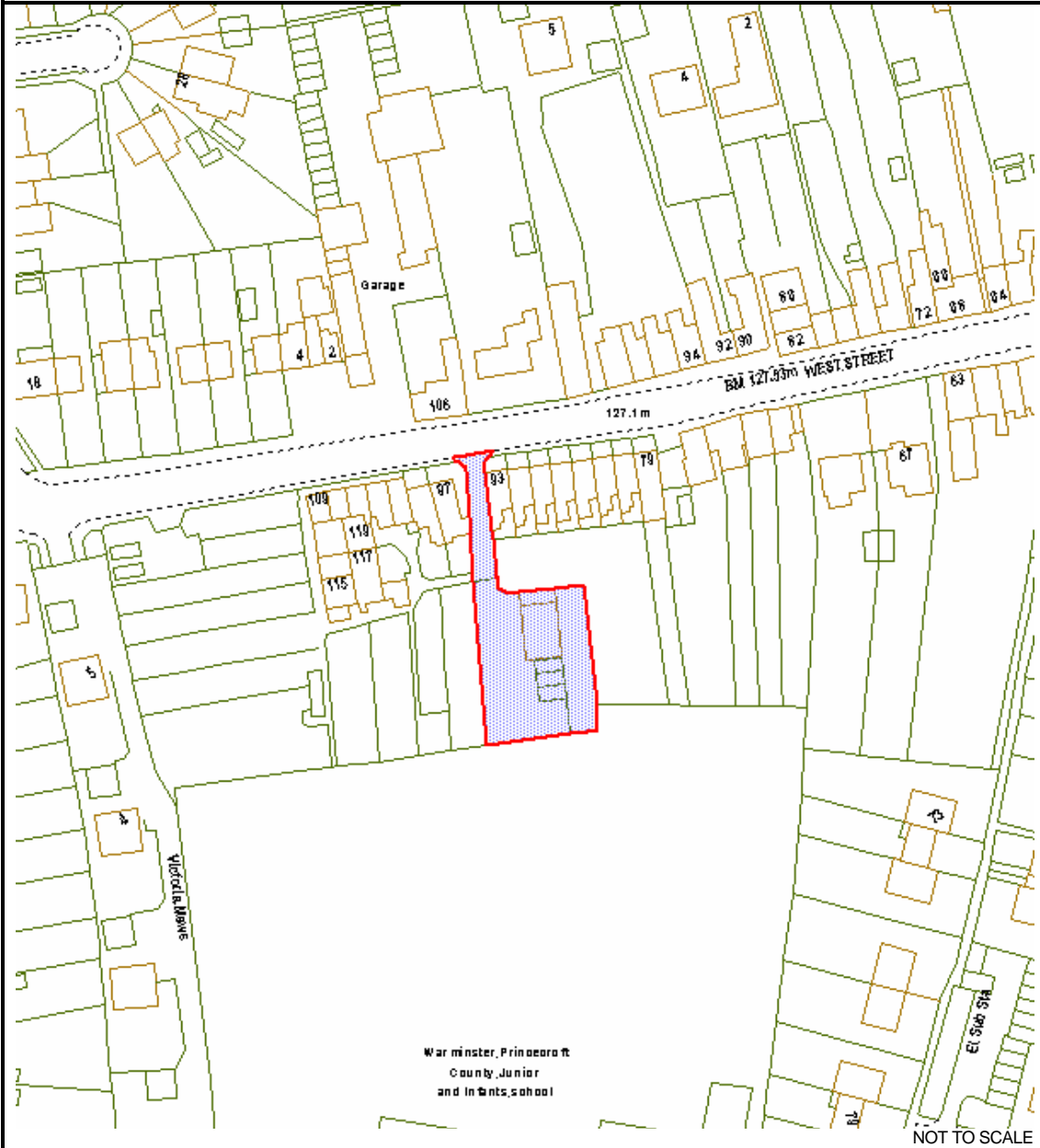
# PLANNING COMMITTEE

3 January 2008

ITEM NO: 04

APPLICATION NO: 07/03011/CON

LOCATION: Rear Of 93 West Street Warminster Wiltshire



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SLA: 100022961

**04 Application: 07/03011/CON**

**Site Address: Rear Of 93 West Street Warminster Wiltshire**

Parish: Warminster Ward: Warminster West  
Grid Reference 386349 144900  
Application Type: Conservation Area  
Development: Demolition of existing garages and construct three new terraced town houses  
Applicant Details: Rod Towler  
Chartered Architect 4 Rosenheim Rise Bratton Westbury Wiltshire  
Agent Details:  
Case Officer: Mr Matthew Perks  
Date Received: 24.09.2007 Expiry Date: 19.11.2007

**REASON(S) FOR RECOMMENDATION:**

**The future redevelopment of the site justifies the demolition of these buildings and there would be no harm to the character and appearance of the Conservation Area.**

**RECOMMENDATION: Consent**

**Condition(s):**

- 1 The works hereby authorised shall begin not later than three years from the date of this consent.

REASON: In accordance with Section 18 of the Planning (Listed Building & Conservation Area) Act 1990 as amended by Section 51 of the Planning & Compulsory Purchase Act 2004.

- 2 The building(s) shall not be demolished before a contract for the carrying out of the works of redevelopment of the site has been entered into, and planning permission has been granted for the redevelopment for which the contract provides.

REASON: To ensure that the character and appearance of the conservation area is conserved.

Policy: West Wiltshire District Plan - 1st Alteration - Policies C17 & C18.

## **COMMITTEE REPORT**

### **APPLICATION DETAILS**

This application is brought to Committee because Warminster Town Council has objected to the application and your officers recommend permission.

This is an application for consent for the demolition of existing garages on land to the rear of 93 West Street, Warminster. The application is related to the current planning application Ref. 07/03050/FUL, which appears elsewhere on this agenda, for the re-development of the site for residential use.

The application is a resubmission of application Ref. 06/03742/CON which was refused for the following reason:

"The demolition of the existing commercial buildings is unwarranted without an acceptable scheme for the redevelopment of the site. This would harm the character and appearance of the Warminster Conservation Area, contrary to Policies C17 and C22 of the West Wiltshire District Plan 1st Alteration (2004)."

## **CONSTRAINTS**

The site falls within Warminster Town Policy Limits and within the Conservation Area.

## **POLICIES**

West Wiltshire District Plan -1st Alteration  
C17 Conservation areas  
C22 Demolition in Conservation Areas

PPG15 Planning and the Historic Environment.

## **RELEVANT PLANNING HISTORY**

06/03742/CON: Demolition of existing garages: Refused: 26.01.2007

## **SITE VISIT / STATUTORY SITE NOTICES**

The site visit was carried out on 02 October 2007, during which site notices were posted.

## **KEY ISSUES**

The only issue in this case relates to whether or not the reasons for refusal of application reference 06/03742/CON have been overcome.

## **CONSULTATIONS**

*Parish/Town Council :*

Warminster Town Council

Objection on the grounds that the access is narrow and will cause serious highway issues.

## **STATUTORY CONSULTATIONS**

*External :*

N/A

*Internal :*

Heritage Development Officer

No objections, replacement is acceptable.

*Neighbours :*

A public notice was posted. No responses were received.

### **OFFICER APPRAISAL**

This application is associated with the current planning application (07/03050/FUL) for the residential re-development of the site. This application is recommended for permission elsewhere on this agenda.

The buildings to be demolished are unattractive structures in the conservation area. Now that there is an acceptable scheme for the redevelopment of the site, consent would be granted for the demolition of the old buildings in order to enable the re-development of the site. The Heritage Development Officer finds the demolition acceptable.

### **RECOMMENDATION**

Consent should be granted subject to conditions ensuring that appropriate re-development ensues.

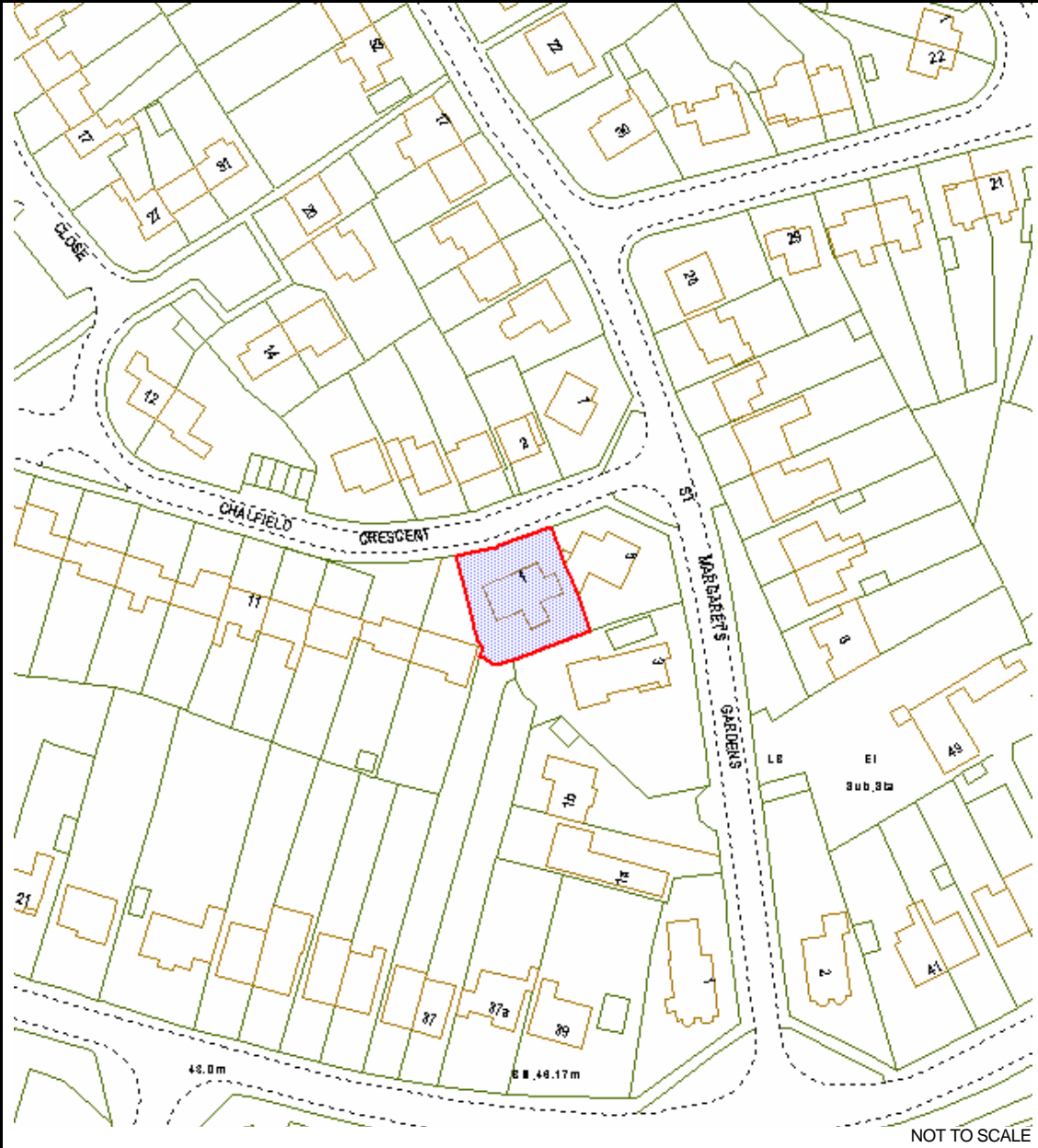
# PLANNING COMMITTEE

3 January 2008

ITEM NO: 05

APPLICATION NO: 07/03176/FUL

LOCATION: 1 Chalfield Crescent Melksham Wiltshire SN12 7BU



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SLA: 100022961

**05 Application: 07/03176/FUL**

**Site Address: 1 Chalfield Crescent Melksham Wiltshire SN12 7BU**

Parish: Melksham (Town) Ward: Melksham East  
Grid Reference 391110 164235  
Application Type: Full Plan  
Development: Loft conversion to include two side dormers  
Applicant Details: Mr And Mrs Cox  
1 Chalfield Crescent Melksham Wiltshire SN12 7BU  
Agent Details: Malcolm Thomas  
79 Railton Jones Close Stoke Gifford Bristol BS34 8XY  
Case Officer: Mr Rudolf Liebenberg  
Date Received: 03.10.2007 Expiry Date: 28.11.2007

**REASON(S) FOR RECOMMENDATION:**

**The proposed development conforms to the Development Plan and there are no objections to it on planning grounds.**

**RECOMMENDATION: Permission**

**Condition(s):**

- 1 The development hereby permitted shall begin before the expiration of three years from the date of this permission.

REASON: In accordance with Section 91 of the Town & Country Planning Act 1990 as amended by Section 51 of the Planning & Compulsory Purchase Act 2004.

- 2 The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

REASON: To ensure that the development harmonises with its setting.

POLICY: West Wiltshire District Plan - 1st Alteration 2004 - Policy C31A.

## **COMMITTEE REPORT**

### **APPLICATION DETAILS**

This application is brought to Committee because Melksham Town Council object contrary to your officer's recommendation.

This is an application for a loft conversion to include pitched roof dormers to the side elevations at 1 Chalfield Crescent, Melksham.

This is a detached 2-storey dwelling in a residential street and is built with red bricks under a red tiled roof. It has an attached single storey side garage. The proposal would add a centrally placed dormer window on both roof slopes. The plans do not indicate what the room would be used for but usually loft conversions are used for habitable bedroom space. The eastern dormer would look out onto the front driveway of the neighbour No 3 and the western dormer out onto the side roof slope of No 5 St Margaret's Gardens.

## **SITE VISIT / STATUTORY SITE NOTICES**

Site notice was posted on site and site visited by Principle Planning Officer.

## **CONSULTATIONS**

*Parish/Town Council* : MELKSHAM TOWN COUNCIL: Object because of the size of the dormers and harmful impact because of potential overlooking.

*External* : N/A

*Internal* : N/A

*Neighbours* : Neighbours were notified by letter and No objections was received.

## **POLICIES**

West Wiltshire District Plan 1st Alteration 2004

C31a - Design

C38 - Nuisance

SPG - House Alterations and Extensions.

## **RELEVANT PLANNING HISTORY**

07/01200/FUL - Loft conversion with pitched dormers - Refused 08.06.2007.

## **KEY ISSUES**

The key issue is the impact of the proposed dormers on neighbouring amenity.

## **OFFICER APPRAISAL**

The proposed dormers have been reduced in size. As a result, it is not considered that the dormer windows are an incongruous addition to the host building due to their design, size and proportions. Although both side elevations of the host building have clear open views into them from the street scene, and both of these dormers would be visible, the spacious character of the street scene and recent similar loft permissions nearby already provides the character of a area that will not be significantly or adversely altered by these dormer additions. Therefore the potential harm they would cause to the host building is minimal and the development would not harm the setting of the street scene.

Nuisance

The dormer windows on the other side elevation would not cause harm to the privacy of either of the two neighbours. This is underlined by the absence of an objection to the proposal from the neighbours. The dormers would look out onto the front driveway and side roof slope of the two



neighbouring properties. The eastern dormer window would be within 21 metres of the habitable bedrooms of No 3 and No 5 Chalfield, however it would not look directly into these windows because of the angles they are at. This would mitigate any potential loss of privacy and therefore the harm caused by any potential overlooking is minimal and not enough to warrant a refusal. No neighbours objected to any possible overlooking under any of the previous or existing application although strangely the Town Council objected to the proposal due to overlooking.

#### Conclusion

The scale, location and design of the development respect the context of the site and will have no adverse impact on the character of the area or any nearby neighbour amenity and should therefore benefit from permission.

### **RECOMMENDATION**

PERMISSION

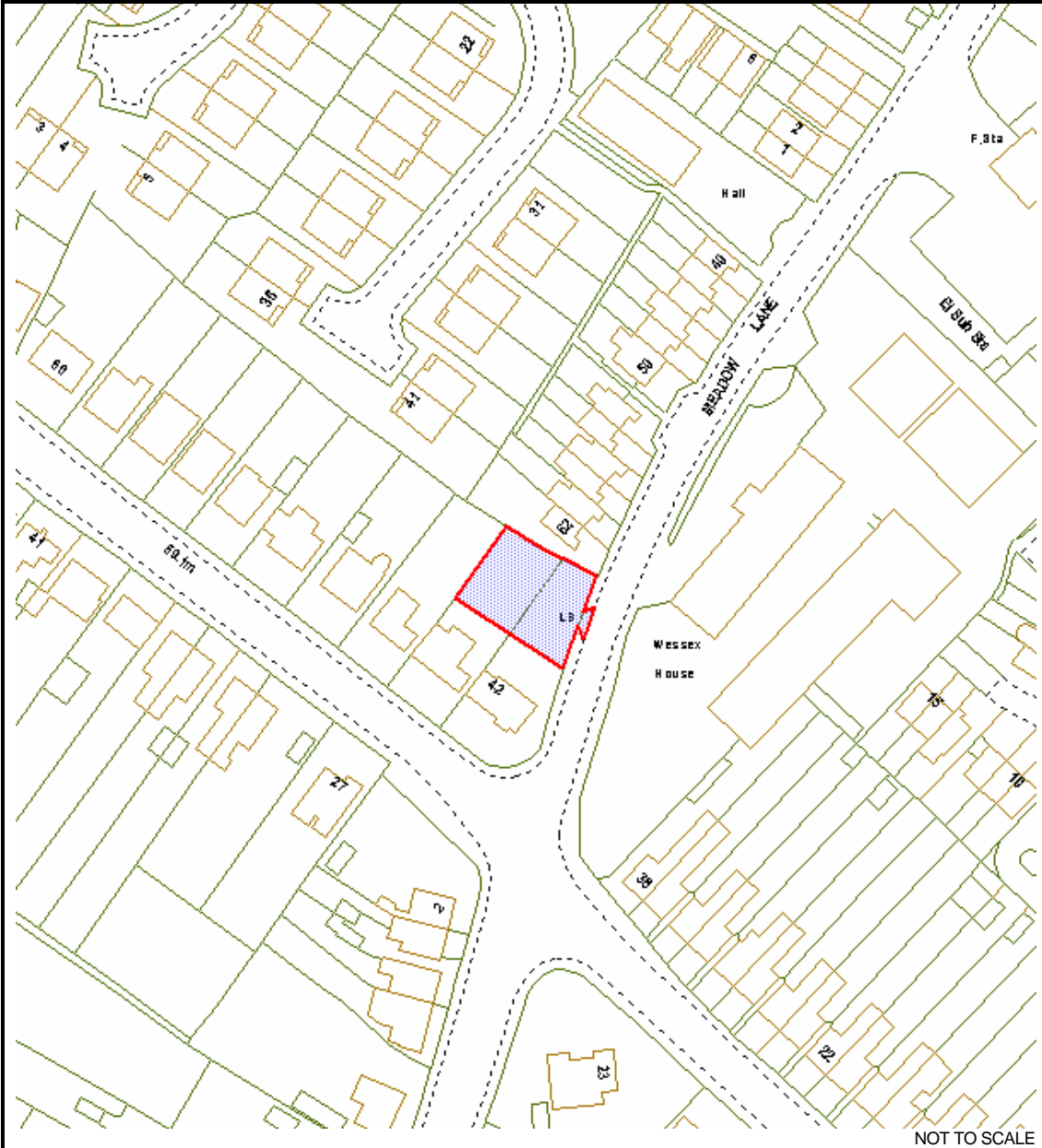
# PLANNING COMMITTEE

3 January 2008

ITEM NO: 06

APPLICATION NO: 07/03223/FUL

LOCATION: Land Rear Of 42 And 44 Station Road Westbury  
Wiltshire



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SLA: 100022961

**06 Application: 07/03223/FUL**

**Site Address: Land Rear Of 42 And 44 Station Road Westbury Wiltshire**

Parish: Westbury Ward: Westbury Ham  
Grid Reference 386902 151520  
Application Type: Full Plan  
Development: Erection of 4 flats, new access, parking and landscaping (revised scheme)  
Applicant Details: KCM Developments Ltd  
89a Trowbridge Road Bradford On Avon BA15 1EG  
Agent Details: Mr Bill Lowe  
43 Alexandra Road Frome Somerset BA11 1LX  
Case Officer: Mrs Judith Dale  
Date Received: 10.10.2007 Expiry Date: 05.12.2007

**REASON(S) FOR RECOMMENDATION:**

**The proposed development would not materially affect the amenities of the neighbours or result in any detrimental impact on the street scene and any planning objections have been overcome by conditions.**

**RECOMMENDATION: Permission**

**Condition(s):**

- 1 The development hereby permitted shall begin before the expiration of three years from the date of this permission.

REASON: In accordance with Section 91 of the Town & Country Planning Act 1990 as amended by Section 51 of the Planning & Compulsory Purchase Act 2004.

- 2 No development shall take place until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted 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: To ensure that the development harmonises with its setting.

POLICY: West Wiltshire District Plan - 1st Alteration 2004 - Policies C31A.

- 3 No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. This shall include indications of all existing trees and hedgerows on the land, and details of any to be retained.

REASON: To provide a satisfactory landscaped setting for the development.

POLICY: West Wiltshire District Plan - 1st Alteration 2004 - Policy C32.

- 4 All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

REASON: To provide a satisfactory landscaped setting for the development.

POLICY: West Wiltshire District Plan - 1st Alteration 2004 - Policy C32.

- 5 The boundary treatments indicated on the approved plans shall be completed prior to the occupation of the development and shall be subsequently maintained.

REASON: In the interests of residential amenity

POLICY: West Wiltshire District Plan 1st Alteration 2004 - Policy C38

- 6 A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small, privately owned, domestic gardens, shall be submitted to and approved by the local planning authority prior to the occupation of the development or any phase of the development, whichever is the sooner, for its permitted use. The landscape management plan shall be carried out as approved.

REASON: To ensure that adequate recreation space is provided to meet the needs of the development.

POLICY: West Wiltshire District Plan - 1st Alteration 2004 - Policy C32.

## **COMMITTEE REPORT**

### **APPLICATION DETAILS**

This application is brought to Committee because of the Town Council's objects contrary to your Officer's recommendation.

The proposal is for the erection of a 2 storey building comprising 3 no 2 bed flats and one single bed unit. The development is for a Z-shaped building approx 15m wide with individual staggered elements 9-10m deep to address the angled nature of the site frontage onto Meadow Lane. The site itself measures approx 0.032 ha, is flat, rectangular in shape and formerly part of the rear gardens of nos 42 and 44 Station Road.

This application as originally submitted proposed a central vehicular access under the first floor of the building through to the rear of the site and a parking area for 4 cars. The scheme has since been revised to deliver a car free development by removing this rear parking area, retaining it entirely as garden space and modifying the central access to a pedestrian route only.

The application has been submitted following the dismissal of a similar scheme on appeal in August 2007. It is accompanied by a detailed Design and Access Statement.

### **SITE VISIT / STATUTORY SITE NOTICES**

Site visit carried out to assess site context and surroundings

### **CONSULTATIONS**

*Parish/Town Council* : Westbury Town Council

Original plans:

The Committee objected to this application on the following grounds:

- Gross overdevelopment
- Loss of amenity to neighbouring properties
- Poor vehicular access and congested parking
- Highways safety issues
- Detrimental in the street scene

Revised plans: Comments awaited

*External* : Highway Authority

Original plans: Recommend refusal on grounds of inadequate parking Revised plans: Comments awaited.

Revised Plans: Recommends refusal on grounds of inadequate parking and encouragement of parking of vehicles on the public highway.

*Internal* :: None

*Neighbours* : Notified via neighbour notification cards

Original plans: Five letters of objections received from 4 residents on the following grounds:

- Overdevelopment of site and excessive density
- Site too close to busy junction with double mini roundabout
- Loss of amenity in terms of overlooking, loss of privacy, overshadowing, noise disturbance and pollution
- Inadequate parking
- Danger due to poor vehicular access
- Detrimental to street scene

Revised plans: At the time of preparing this report, x letters of objection have been received

## **CONSTRAINTS**

Previous appeal decision

## **POLICIES**

West Wiltshire District Plan - 1st Alteration - H 1, C31 a, C38.

## **RELEVANT PLANNING HISTORY**

07/00236/FUL - Erection of 4 two bed flats, new access and parking - Not determined and subsequently dismissed on appeal in August 2007

## **KEY ISSUES**

- Whether the Inspectors reasons for dismissing the previous appeal have been addressed / overcome
- The principle of car free development on this site

## **OFFICER APPRAISAL**

Consideration Against Appeal Decision

In dismissing the recent appeal against the previous scheme, the Inspector identified that 'the main issue in this case is the effect of the development on the living conditions of the occupiers of

properties in Station Road in relation to outlook, privacy, noise and disturbance.' Specifically, two elements were identified:

1. The southern wall of the proposed building was too close to the rear wall of no 42 with a consequent impact on amenity - the single storey element measured 5.5m and the two storey element, 8.6m.

This revised application has removed the single storey section in its entirety and moved the two storey wall back to a distance of approx 10m. Although this is not excessive, there are no overlooking windows, the adjoining site is within the same ownership and the previously described dominating impact has been reduced to what now might be regarded as acceptable.

2. The majority of the rear garden would be a car park for 6 vehicles with consequent 'unacceptable noise and disturbance from parking, turning and manoeuvring'.

This revised application has removed all car parking from the rear of the site which quite clearly addresses this particular concern.

The more general matter of overlooking of existing gardens from windows in the proposed development was also raised as part of the previous appeal and addressed by the Inspector as follows:

I Whilst the proposal would allow some overlooking into the rear gardens of 44 and 46 Station Road, this is not an uncommon situation in built-up areas and, in this case, I do not consider that the proposal is unacceptable in this respect.'

This particular aspect has again been raised as an significant amenity concern by residents in their comments on this application. However, the number, style and position of windows in the rear elevation remains unaltered from the appeal proposal (one of the windows is actually smaller) and in the light of the Inspector's comment on this particular aspect would not now be supportable as a reason for refusal.

Apart from the specific modifications detailed above, the size, position and overall use of the proposed building is unchanged from that considered at the previous appeal and therefore raises no new issues in terms of amenity - against that background, it is considered that the current proposal is acceptable.

#### Principle of Car Free Scheme

Notwithstanding the above, the current application introduces a material change with regard to its parking arrangements and now proposes a car free development. Justification and support for this is based on the fact that the applicant company specialises in providing accommodation for rent for a client group who are predominantly non car owners but are frequently families for whom garden and amenity space would be more beneficial.

In its response to the original plans which initially proposed a reduction in parking from 6 to 4 spaces, the Highway Authority recommended refusal on the grounds of inadequate parking. It went on to state that 'Westbury is not a location where we would support a car-free development.

It has limited facilities and the majority of employment, shopping, and leisure needs can only be met outside of Westbury.' While a formal response to the amended car free scheme is still awaited, the following points are relevant:

- Despite the comments from the Highway Authority, Westbury, as one of the 5 major towns within West Wiltshire, is quite clearly a sustainable settlement with a full range of facilities.

- In dismissing the earlier appeal, the Inspector clearly considered the application site to be in a sustainable position - he referred to it as 'close to various bus routes and within walking distance of the town centre, a railway station, a public park and other facilities.'

- This is supported using the County Council's Accessibility Matrix, where an analysis of the site confirms it as having a moderate-to-good accessibility level with regard to all of the relevant categories which include shops, schools, public transport and leisure facilities, all of which are likely to be particularly important for the client group.

- The applicant confirms that the proposed flats will be offered for rent only and that likely tenants are those who would otherwise look to be housed by the District Council, thereby fulfilling a housing need.

- PPS1 encourages development which supports existing communities and contributes to the creation of 'safe, sustainable, liveable and mixed communities with good access to jobs and key services for all members of the community' - this sustainable site would deliver 4 small one and two bed roomed units to meet a defined housing need

- PPS3 advises a design-led approach to the provision of car parking space and that where family housing is proposed, 'the needs of children are taken into account. .. and that there is good provision of private gardens, play areas and informal play space.' This would appear to support the provision of garden space at the expense of car parking for a sector of the housing market where car ownership is limited.

In the light of the above, there would appear to be clear planning justification, in this particular case, for supporting a car free scheme.

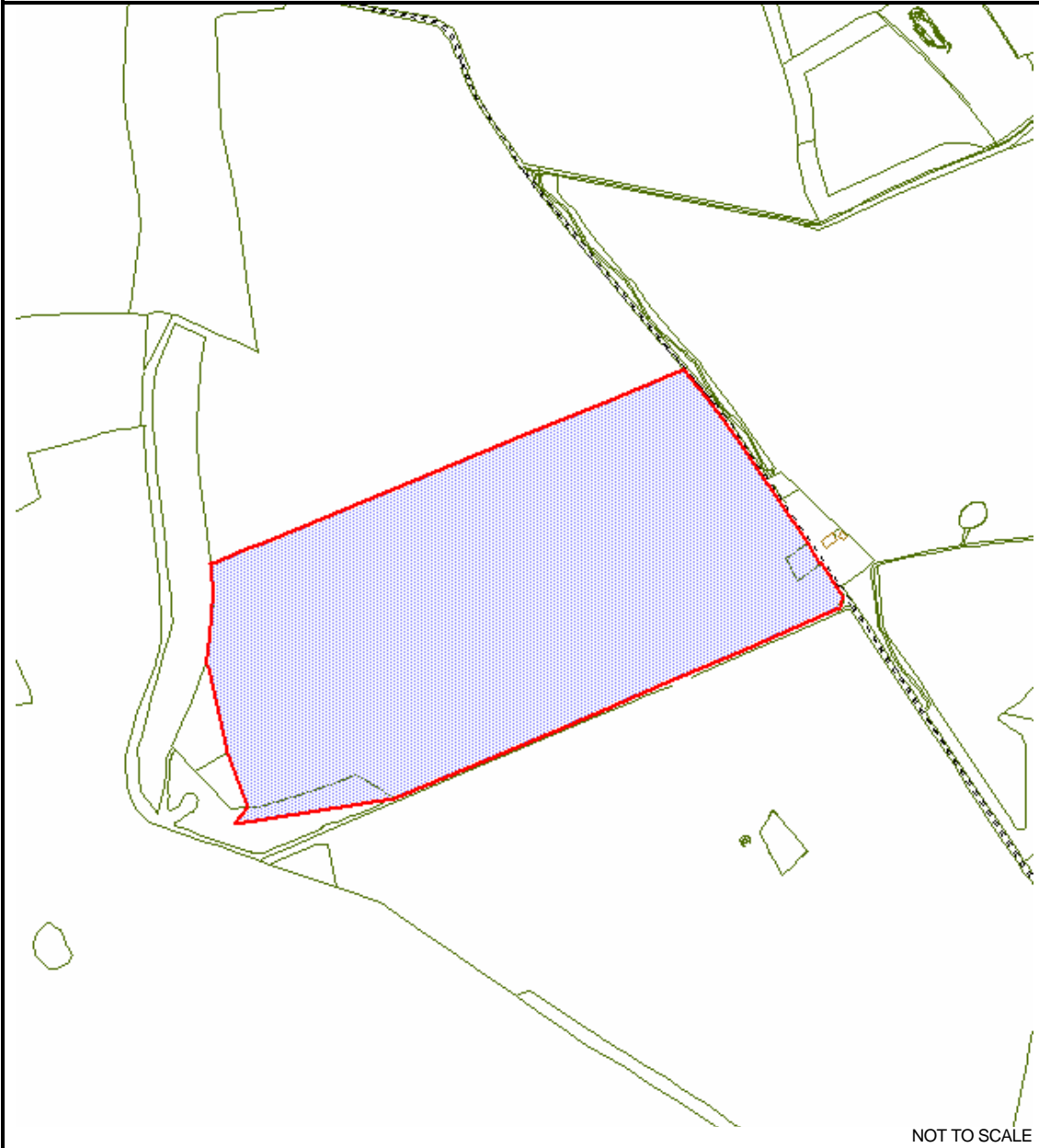
# PLANNING COMMITTEE

3 January 2008

ITEM NO: 07

APPLICATION NO: 07/03266/FUL

LOCATION: Land West Of Pen Hill Monkton Deverill Wiltshire



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SLA: 100022961



**07 Application: 07/03266/FUL**

**Site Address: Land West Of Pen Hill Monkton Deverill Wiltshire**

Parish: Kingston Deverill Ward: Shearwater  
Grid Reference 387666 135801  
Application Type: Full Plan  
Development: Use of land for model aircraft flying  
Applicant Details: Penhill Farming Company  
C/O Agent  
Agent Details: A Leeming  
Secretary Lords Hill Model Flying Club 1 Heathfields Way  
Shaftesbury SP7 9JZ  
Case Officer: Mr Matthew Perks  
Date Received: 12.10.2007 Expiry Date: 07.12.2007

**REASON(S) FOR RECOMMENDATION:**

**The proposed development conforms to the Development Plan and there are no objections to it on planning grounds.**

**RECOMMENDATION: Permission**

**Condition(s):**

- 1 The development hereby permitted shall begin before the expiration of three years from the date of this permission.

REASON: In accordance with Section 91 of the Town & Country Planning Act 1990 as amended by Section 51 of the Planning & Compulsory Purchase Act 2004.

- 2 The flying of any model aircraft shall only take place between 09.00 hours to 21.00 hours, or dusk, whichever is the sooner. There shall be no flying of any model aircraft during the hours of darkness.

REASON: In order to safeguard the amenities of the area in which the development is located.

POLICY: West Wiltshire District Plan – 1st Alteration 2004 - Policy C38.

- 3 No structures or facilities shall be erected or positioned on the site, either permanently or temporarily. Any such proposals will need to be the subject of a planning application.

REASON: In order to protect the landscape character of the area.

POLICY: West Wiltshire District Plan – 1st Alteration 2004 - Policy C2.

- 4 The use hereby permitted shall be discontinued and the land restored to its former condition on or before 1 January 2011.

REASON: In order to enable the Local Planning Authority to monitor and re-assess the use of the site.

- 5 Prior to the commencement of the development hereby permitted a survey investigating possible impacts on any protected species and their habitats likely to be affected by the proposed use and, if necessary, measures to mitigate the effect of the use on them, shall be submitted to and approved by the Local Planning Authority.

REASON: In the interests of natural species which have statutory protection.

POLICY: West Wiltshire District Plan - 1st Alteration - Policy C7.

## **COMMITTEE REPORT**

### **APPLICATION DETAILS**

This application is brought to Committee since the Upper Deverill Parish Council objects to the proposal and yours officers recommend permission.

This is a full application for the change of use of land for model aircraft flying at land to the west of Pen Hill, Monkton Deverill. The land involved is an 80m x 92m (±0.74ha) area located in the north eastern sector of a 40ha field within the Area of Outstanding Natural Beauty. The take off and landing area would be surrounded by a 20m wide closely mown area for parking and a pits area. The field is bounded on the eastern side by an unclassified single track road providing access to the A350, which passes about 900m to the south. The site would be some 220m from the eastern road boundary.

No buildings are proposed on the site. Access would be gained from an existing farm gate to the unclassified road to the east.

The application has arisen out of the need for the flying club to re-locate their activities from a site at Summersdale Down, some 2000m to the north of the application site, since the owner of that land requires it for other purposes. This other site has had permission since 1999, with extended permission to 2011 having been granted in September 2006.

### **CONSTRAINTS**

The site lies within the Cranborne Chase and West Wiltshire Downs Area of Outstanding Natural Beauty, an area of archaeological interest and above a Groundwater Source Protection Area.

### **POLICIES**

West Wiltshire District Plan - 1st Alteration 2004  
C2 Areas of Outstanding Natural Beauty  
C15 Areas of Archaeological Interest  
C36 Noise  
C38 Nuisance  
R1 Recreational space  
U4 Groundwater Source Protection Areas

### **RELEVANT PLANNING HISTORY**

Although not specific to this site which must be considered on its own merits, the previous permissions at Summerslade Down have relevance in terms of policy considerations and the history of the club applying for the use:

- 99/01235/FUL - Use of land for model aircraft flying - Permission 28.10.99
- 00/01886/FUL - Use of land for flying model aircraft (renewal) - Permission 04.01.01

- 03/00344/FUL - Use of land for model aircraft flying (renewal) - Permission 08.01.04
- 06/00880/FUL - Use of land for model aircraft flying - Permission 01.09.06

## **SITE VISIT / STATUTORY SITE NOTICES**

The site visit was carried out on 26 October 2007, when a site notice was posted.

## **KEY ISSUES**

The key issues with this application are the possible impact on the Area of Outstanding Natural Beauty (Area of Outstanding Natural Beauty), highways and parking issues and possible noise and nuisance.

## **CONSULTATIONS**

*Parish/Town Council* : MONKTON DEVERILL

The Parish Council has "...a strong objection to the above application on the following grounds:

- a. Wild Life issues : Corn Buntings are known to inhabit the area and are red listed in the UK as being seriously in need of protection;
- b. Proximity to road ;
- c. Additional vehicle use, especially when events are being held.

The Council wishes to emphasise the importance of Point a, and to ask whether an environmental assessment has been carried out and if a copy might be sent to it."

In subsequent correspondence the Parish was advised that Natural England had been consulted on the proposal but that no preliminary environmental assessment had been required on submission of the application. The Parish was requested to provide greater detail on nesting sites and was advised that consideration would be given to imposing a condition, in the event that permission is granted, for a survey prior to commencement of activities.

*External* :

Highway Authority

No comment received.

Natural England

Natural England advises that they have no comment to make on the proposal. However, the applicants should be informed that planning permission does not absolve them from complying with relevant law and licensing requirements.

Cranborne Chase and West Wiltshire Downs Area of Outstanding Natural Beauty

Is mindful that model aircraft flying is a "...legitimate activity..." which "...in moderation, in both the intensity of the activity and the frequency of it, might not be entirely incompatible with the Area of Outstanding Natural Beauty aims and objectives". Although the Area of Outstanding Natural Beauty team would prefer not to have such activities, if approval is granted it is recommended that:

- noise controls are put in place;
- no hard surfacing or buildings are permitted;
- flying days are limited to occasional use;
- the permission is made specific to the club.

*Neighbours* :

A public notice was posted. No comments were received.

## **OFFICER APPRAISAL**

The site lies within the Cranborne Chase and West Wiltshire Downs Area of Outstanding Natural Beauty, where a primary consideration is character of the landscape. The proposal is for the change of use of a small (less than 2%) portion of a field, which appears as agricultural grassland. No structures or hard surfaces are proposed. There would therefore be no permanent visual impact on the landscape. There are no public rights of way over the field.

The site lies approximately 2000m south of the site previously granted permission for the same use, which was also accessed off of a track with the nearest main road being the A350. The landing/take-off area would be more than 200m from the nearest roadway.

Model aircraft flying is regulated by Civil Aviation Authority codes of Practice and the Air Navigation Order of 2005. These regulate or guide, *inter alia*, separation distances between model aircraft and users of the highway, as well as noise. The application documentation includes a diagram showing noise sensitive premises and a "no-fly" zone which indicates that the nearest premises within the fly zone is Keysley Farm, further than 1km from the take-off and landing area. Any new noise issues (although no complaints appear on Council's records for the club on the nearby site) would fall to be dealt with under Environmental Health legislation. Adequate measures therefore exist to address this issue should it arise. There is no record of action against the club for having been in breach of planning conditions applicable to the previous permission. Records also indicate that no complaints have been raised with Council's environmental health section in respect of the flying activities on the previous site.

The West Wiltshire District Council "Recreational Aim" as identified in the District Plan is "...to conserve existing resources and to allocate land for additional facilities to meet the increasing recreational needs of the District." It is evident from the club activities at the old site, including the participation of disabled members in model flying, that the availability of facilities has a role to play in the range of activities towards the recreational aim.

The concerns of the Parish Council in respect of the presence of corn buntings in the general area are noted. No particular nesting or bird activity on or near the site has however been identified. The comments of Natural England make it clear that there is a legal responsibility on the applicants to comply with relevant law. The site furthermore is located on an agricultural field which will not be subject to physical change other than close mowing of a small portion thereof. There are therefore legislative measures outside of planning that protect species that may be threatened. However, an appropriate condition should be imposed to ensure that an assessment is undertaken of the site to determine whether or not wildlife would actually be affected by the activity and, if so, what mitigating measures are required.

Government Guidance makes it clear under Circular 11/95 that temporary permission will normally only be appropriate either where the applicant proposes temporary development, or when a trial run is needed in order to assess the effect of the development on the area. Although there is no official record of harm caused by the activity on the nearby site, it would be appropriate - given that this is a new locality - that a temporary permission be granted with a view to enabling the Local Planning Authority to re-assess the situation after a trial period to consider permanency.

## **RECOMMENDATION**

The proposal is considered acceptable and in accordance with the development plan. Appropriate conditions should however be applied.



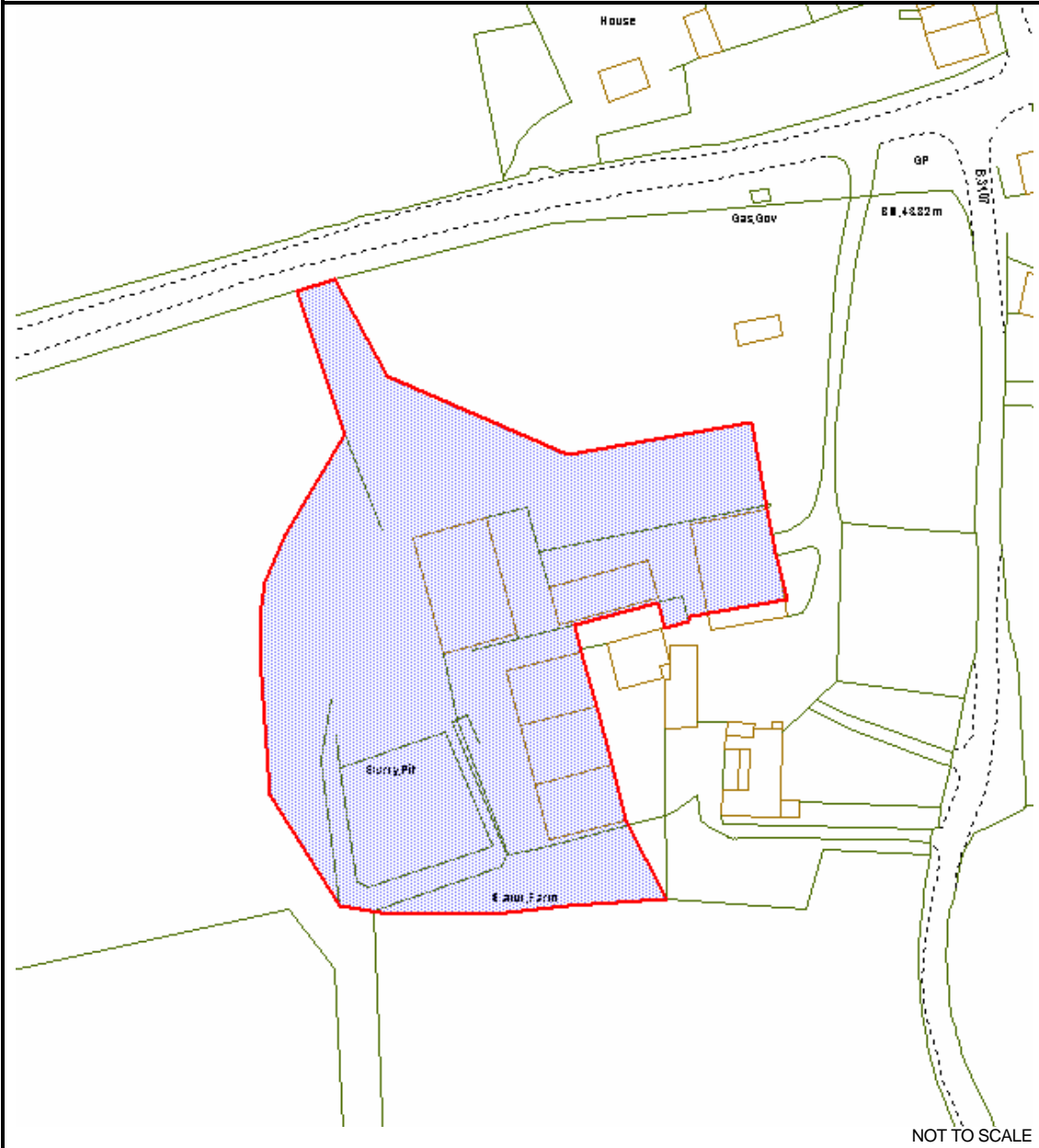
# PLANNING COMMITTEE

3 January 2008

ITEM NO: 08

APPLICATION NO: 07/03420/FUL

LOCATION: Manor Farm Bradford Road Holt Wiltshire BA14 6PL



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SLA: 100022961

**08 Application: 07/03420/FUL**

**Site Address: Manor Farm Bradford Road Holt Wiltshire BA14 6PL**

Parish: Holt Ward: Avonside

Grid Reference 385706 161476

Application Type: Full Plan

Development: Conversion of agricultural buildings to Class B2 & B8 uses, layout of internal access ways with parking & servicing areas, improvements to existing access

Applicant Details: Mr K Tucker  
Manor Farm Bradford Road Holt Wiltshire BA14 6PL

Agent Details: Land Development & Planning Consultants Ltd  
Lavender Cottage Nettleton Chippenham Wiltshire SN14 7NS

Case Officer: Mr Rudolf Liebenberg

Date Received: 23.10.2007 Expiry Date: 18.12.2007

**REASON(S) FOR RECOMMENDATION:**

**The proposed development conforms to the Development Plan and there are no objections to it on planning grounds.**

**RECOMMENDATION: Permission**

**Condition(s):**

- 1 The development hereby permitted shall begin before the expiration of three years from the date of this permission.

REASON: In accordance with Section 91 of the Town & Country Planning Act 1990 as amended by Section 51 of the Planning & Compulsory Purchase Act 2004.

- 2 A schedule of the materials to be used in the external surfaces of the development shall be submitted to and approved by the Local Planning Authority prior to the commencement of the development.

REASON: To ensure that the development harmonises with its setting.

POLICY: West Wiltshire District Plan - 1st Alteration 2004 - Policy C31A.

- 3 No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the building(s) is/are occupied or in accordance with a timetable agreed in writing with the Local Planning Authority. Development shall be carried out in accordance with the approved details.

REASON: To ensure the appearance of the development is satisfactory.

POLICY: West Wiltshire District Plan - 1st Alteration 2004 - Policy C32.

- 4 The development hereby permitted shall not be occupied until works for the disposal of sewage have been provided on site to serve the development hereby permitted, in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

REASON: To ensure that the development can be adequately drained.

POLICY: West Wiltshire District Plan - 1st Alteration - Policy U1A.

- 5 Before the development is first used, provision shall be made within the site for the disposal of surface water so as to prevent its discharge onto the highway.

REASON: In the interests of highway safety.

- 6 The parking and servicing areas indicated on the approved plans together with the means of access thereto shall be completed and made available for use before the premises are occupied and shall be maintained as such thereafter.

REASON: To ensure that an adequate area for parking and/or servicing is available in the interests of highway safety.

POLICY: West Wiltshire District Plan - 1st Alteration - Policy T10.

- 7 The premises shall be used for B2 and B8 uses only and for no other purpose, including any other purpose in Class B of the Schedule to the Town & Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order, with or without modification.

REASON: Because the use hereby permitted is acceptable whereas other uses within the same use class may not be.

- 8 Before the development hereby permitted is first brought into use the area between the nearside carriageway edge and lines between a point 2.4m back from the carriageway edge along the centre line of the access points on the carriageway edge 215m towards the south-west and 150m towards the north-east from the centre line of the access shall be cleared of obstruction to visibility at and above a height of 09m above the nearside carriageway level and thereafter maintained free of obstruction at all times.

REASON: In the interests of highway safety.

POLICY: West Wiltshire District Plan - 1st Alteration - Policy T10.

- 9 The access road should measure 7.3m in width, for at least the first 10m. The access should also incorporate access radii of 10m.

REASON: In the interests of highway safety.

POLICY: West Wiltshire District Plan - 1st Alteration - Policy T10.

- 10 Any entrance gates erected shall be hung open away from the highway only and shall be set back a minimum distance of 10m from the carriageway edge.

REASON: In the interests of highway safety.

POLICY: West Wiltshire District Plan - 1st Alteration - Policy T10.



- 11 Before the buildings hereby approved is first occupied, a properly consolidated and surfaced access (not loose stone or gravel) for the first 10m shall be constructed, details of which shall have been submitted to and approved by the Local Planning Authority.
- REASON: In the interests of highway safety.
- POLICY: West Wiltshire District Plan - 1st Alteration - Policy T10.
- 12 A 2m wide shared footway/cycle way shall be provided from the site access to the junction of the B3106 (near Toll Gate Pub). The footway shall be constructed adjacent to the carriageway. A lighting scheme should also be provided to the back of the footway. Details of the footway and lighting scheme shall be submitted to and approved by the Local Planning Authority.
- REASON: In the interests of highway safety.
- POLICY: West Wiltshire District Plan - 1st Alteration - Policy T10.
- 13 Plans showing covered cycle parking for 6 cycles shall be submitted to and approved in writing by the Local Planning Authority before the development is commenced.
- REASON: In the interests of highway safety.
- POLICY: West Wiltshire District Plan - 1st Alteration - Policy T10.
- 14 Prior to the development opening a site Travel Plan shall be submitted to and approved in writing by the Local Planning Authority.
- REASON: In the interests of highway safety.
- POLICY: West Wiltshire District Plan - 1st Alteration - Policy T10.
- 15 The area allocated for parking and turning (of large vehicles) on the submitted plan LDC.943.07.002c shall be kept clear of obstruction and shall not be used other than this purpose in connection with this development hereby permitted.
- REASON: In the interests of highway safety.
- POLICY: West Wiltshire District Plan - 1st Alteration - Policy T10.

## **COMMITTEE REPORT**

### **APPLICATION DETAILS**

This application is brought to Committee because Holt Parish Council have in the past objected to this, contrary to your officer's recommendation.

This is a full planning application for the conversion of a barn to form a single dwelling unit and for the erection of two semi-detached dwellings with ancillary workshops and garaging to replace existing agricultural buildings. The building which is to be converted is a stone built barn with clay tiled roof.

The proposal involves the removal of two agricultural buildings from the site.

The application site is located within the countryside, the Western Wiltshire Green Belt and Conservation Area.

### **CONSTRAINTS**

Conservation Area and Green Belt.

## **POLICIES**

PPS1, PPG2, PPS7

RPG10/RSS10, policies: VIS2, SS4, EN3, ENV4, EC1, EC3, TRAN1, TRAN7

Emerging RSS 2006-2026, policies: DPC, DPE, DPH

Wiltshire Structure Plan 2016, policies: DP1, DP9, DP12, HE7

West Wiltshire District Plan 1st Alteration, policies: C17, C19, C20, E8

## **RELEVANT PLANNING HISTORY**

75/00350/HIS - Conversion of store into garages and renovations - Permission;

97/01086/FUL - Replacement barn for storage of fodder - Permission;

04/01998/HDG - Removal of 180m of Hedgerow adjacent to B3107 at Manor Farm - No Hedgerow Retention Notice is made;

06/02534/FUL - Conversion of agricultural buildings to B2 and B8 - Withdrawn;

See file for further records.

## **SITE VISIT / STATUTORY SITE NOTICES**

Site and Press notice - no comments received.

## **KEY ISSUES**

The key planning issues in this case to consider are issues of planning policy, green belt, conservation area, design, amenity, highway safety and impact on the countryside.

## **CONSULTATIONS**

*Parish/Town Council* : HOLT PARISH COUNCIL: Although the Parish Council did not comment on this application, they raised objections to the conversion and change of use of the agricultural buildings at Manor Farm to B2 and B8 uses as proposed under 06/02534/FUL, which was subsequently withdrawn. Please note their letter dated 29 August 2006 in the 2006 file.

*External* : PLANNING POLICY: Acceptable in policy terms.

WILTSHIRE AND SWINDON BIOLOGICAL RECORDS CENTRE: Guide that PPG 9 states that the presence of a protected species is a material consideration, but do not object.

ENGLISH NATURE/NATURAL ENGLAND: No objection.

WESSEX WATER: No objection.

*Internal* : HIGHWAY AUTHORITY: Recommend that the application be permitted subject to appropriate conditions.

ENVIRONMENTAL HEALTH: The area surrounding this unit is mainly agricultural with some nearby detached residential properties. Standard usage and activities associated with such developments should not usually generate significant noise nuisance or odour issues.

*Neighbours* : West End House, 14, 16, 17, 19 (Old Coach House) and 19A Leigh Road, The Toll Gate, Kingston Farm House and Barn at Manor Farm by Notification cards on 05.11.2007 - One letter was received raising the following objections;

- Any permission would create high levels of additional traffic associated with the proposed use and the village infrastructure is unable to cope with this;
- The new uses will contribute to additional noise pollution in this rural setting affecting holiday accommodation and self catering businesses in close proximity;
- The countryside should be protected and the proposal is out of character for the area;

## **OFFICER APPRAISAL**

### Principle

The site lies within the West Wiltshire Green Belt and within a Conservation Area. The site also lies outside Village Policy Limits in open countryside. The site is not affected by any other site specific constraints or allocations.

Development within the green belt and in open countryside is strictly controlled, however, the need for a healthy rural economy is recognised and District Plan policy encourages development, including conversions, which benefit local economic activity.

The re-use of buildings will be permitted providing a number of criteria are met. The proposal seeks to convert three of the existing buildings without significant alteration and repair an existing Dutch barn. I am satisfied that the proposal meets the criteria regarding development in the green belt and that the development will not have a greater material impact than the present use on the openness of the green belt.

A structural survey has been included within the current proposal detailing that all the buildings, with the exception of Building 8 - the Dutch barn, are considered fit for conversion to a commercial and more intensive use. Building 8 is not considered capable of conversion to a more intensive use than is presently operating.

### Conservation Area/Green Belt

Lying within a Conservation Area this proposal must ensure that alterations preserve or enhance the character or appearance of the conservation area, and that design is sympathetic to the existing buildings. Being agricultural buildings I am satisfied that the proposal will not have a detrimental impact on the Conservation Area however the material and colour of the sheeting proposed will need to be discussed.

The conversion of the buildings will have no adverse impact on the openness of the Green Belt in this location. The area to be covered by buildings will not increase as a result of this proposal.

### Wildlife

A bat and bird survey has been carried out which suggests that there would be no significant environmental problems in converting/replacing the proposed buildings.

### Highway Issues

There has been specific mention of the 44 number of car parking spaces intended to be provided for this site. Local policy dictates maximum car parking standards and as such for this proposal this policy must be applied. The Highway Authority has recommended approval subject to their appropriate conditions. Furthermore, the Highway Authority has requested a street lighting scheme along the back of the footway to the site. However Mark Reynolds, the senior planning officer dealing with the pre-application discussions, had indicated that this proposal would have an adverse impact on the openness of the Green Belt and that the LPA would not insist on such a scheme. Therefore it is recommended that any permission comply with the conditions as prescribed by the Highway Authority but the street lighting scheme is not recommended.

### Conclusion

The re-use of agricultural buildings in order to promote the rural economy is encouraged in national, regional and local policy and this proposal appears to be a good use of such buildings.

## **RECOMMENDATION**

PERMISSION



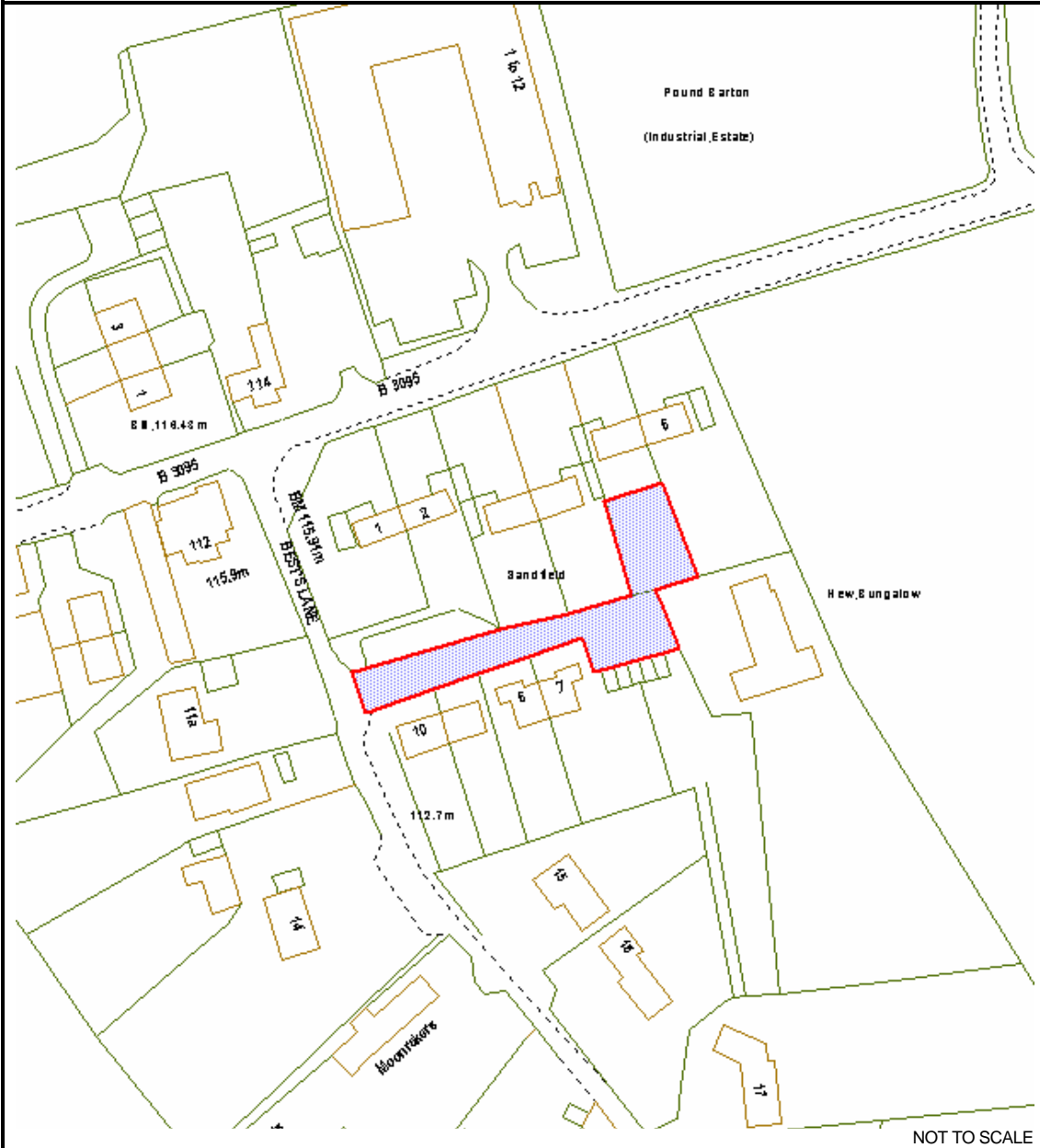
# PLANNING COMMITTEE

3 January 2008

ITEM NO: 09

APPLICATION NO: 07/03383/FUL

LOCATION: Land Rear Of 5 Sandfield Sutton Veny Wiltshire



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SLA: 100022961

**09 Application: 07/03383/FUL**

**Site Address: Land Rear Of 5 Sandfield Sutton Veny Wiltshire**

Parish: Sutton Veny

Ward: Shearwater

Grid Reference 390055 142220

Application Type: Full Plan

Development: One dwelling in garden of No 5 Sandfield - access off Sandfield

Applicant Details: Mr And Mrs G Jenkins  
5 Sandfield Sutton Veny Warminster BA12 7AZ

Agent Details: R K Architecture  
The Design Centre Crusader Park Warminster Wiltshire BA12 8BT

Case Officer:

Date Received: 23.10.2007

Expiry Date: 18.12.2007

**RECOMMENDATION: Refusal**

**Reason(s):**

- 1 The proposed dwelling, by reason of its siting and position, would result in a form of development out of keeping with the character and pattern of development in the surrounding area contrary to Policies H17 and C31a of the West Wiltshire District Plan 1st Alteration 2004 and national guidance in PPS3.
- 2 The proposed dwelling, by reason of its siting, orientation and relationship with adjoining properties would result in a lack of privacy, overbearing impact and lack of acceptable outdoor amenity space for future occupiers contrary to Policy C38 of the West Wiltshire District Plan 1st Alteration 2004 and national guidance in PPS3

## **COMMITTEE REPORT**

### **APPLICATION DETAILS**

This application is brought to the Committee at the request of Councillor Mounde.

The application proposes the erection of a bungalow in the rear garden of the existing semi detached dwelling. The site is rectangular, with an area measuring approx 0.026 ha, a depth of approx 20m and a 14m wide frontage directly onto Sandfield, a cul de sac which serves the rear of the property. A significant part of the slightly sloping garden is laid to a gravelled parking area.

### **CONSTRAINTS**

Within Village Policy Limits Boundary  
Area of Outstanding Natural Beauty

### **POLICIES**

WWDP - C2, H17, C31A, C38

## RELEVANT PLANNING HISTORY

Pre-app consultation

## SITE VISIT / STATUTORY SITE NOTICES

02/11 - Site Notice

## KEY ISSUES

Principle of development  
Design and amenity considerations  
Highway considerations  
Impact on AONB

## CONSULTATIONS

*Parish/Town Council :*

SUTTON VENY PARISH COUNCIL 26/10 - No objection

*External : NA*

*Internal : NA*

*Neighbours : 26/10 - by card - nos 3,4,6,7,8 Sandfield and The Bungalow, Bests Lane - 2 letters of objection received on following grounds:*

- Traffic hazard with increased use of existing poor access
- Development would set a precedent
- Pressure on existing drainage system
- Overlooking and loss of privacy
- Loss of light
- Siting out of keeping with pattern of development in area
- High density of development
- No garden space for proposed dwelling

## OFFICER APPRAISAL

Principle

Within the village boundary, the principle of housing development is acceptable subject to the development being in keeping with the character and appearance of the settlement, not giving rise to unacceptable backland or tandem development and the availability of adequate infrastructure. While not strictly backland in terms of the access arrangement, the proposed site lies immediately behind a row of established frontage properties to introduce a second tier of development within the sizeable rear gardens. This is contrary to the prevailing character in the immediate vicinity which would prejudice existing amenity in this case and set an unfortunate precedent with cumulative harm in the future.

Design and amenity

Although in outline form, all matters are reserved for subsequent approval apart from means of access. However the accompanying Design and Access Statement and plans indicate a 2/3 bed bungalow, with a 90 sqm L-shaped footprint, 4.8m ridge height and parking for 2 cars in its front garden. As shown

- the distance between the proposed unit and the existing 2 storey dwelling to its rear measures less than 10m with significant overlooking from first floor windows and no privacy in the very limited rear garden of the new bungalow



- at the proposed distances, the existing two storey property, already at a slightly higher level, would dominate the rear elevation of the proposed bungalow and restrict light availability to its northern elevation
- the indicative site coverage together with the required parking for 2 vehicles would result in very limited garden and amenity space for the proposed residents, most of which would be to the front of the property and open to public view
- the proposed rear boundary of the plot would be level with the rear elevation of the existing dwelling to the west with consequent loss of amenity for its residents.

#### Highway Considerations

The scheme would provide 2 parking spaces for the proposed bungalow using the existing access and would create no net increase in use of the existing unadopted cul de sac. Replacement parking for the existing dwelling has not been specifically included within this application but there exists sufficient space in the front garden of no 5 for this to be provided at a later date. Pre application comments from the Highway Authority included with this application suggest this is unlikely to be contentious from a highway point of view.

#### Impact on Area of Outstanding Natural Beauty

Although the site lies within this designated area, it is contained within the village boundary limits and would have no impact on the surrounding landscape.

Notwithstanding the Council's own policy for new development to be in keeping with its surroundings, PPS3 places emphasis on new development being 'well integrated with, and complementing, neighbouring buildings and the local area in terms of scale, density, layout and access.' The proposed bungalow would bear little relationship to the type, scale or layout of existing properties but would introduce an alien pattern of development detrimental to the character of the area and the amenity of existing and future residents.

#### **RECOMMENDATION**

Refuse

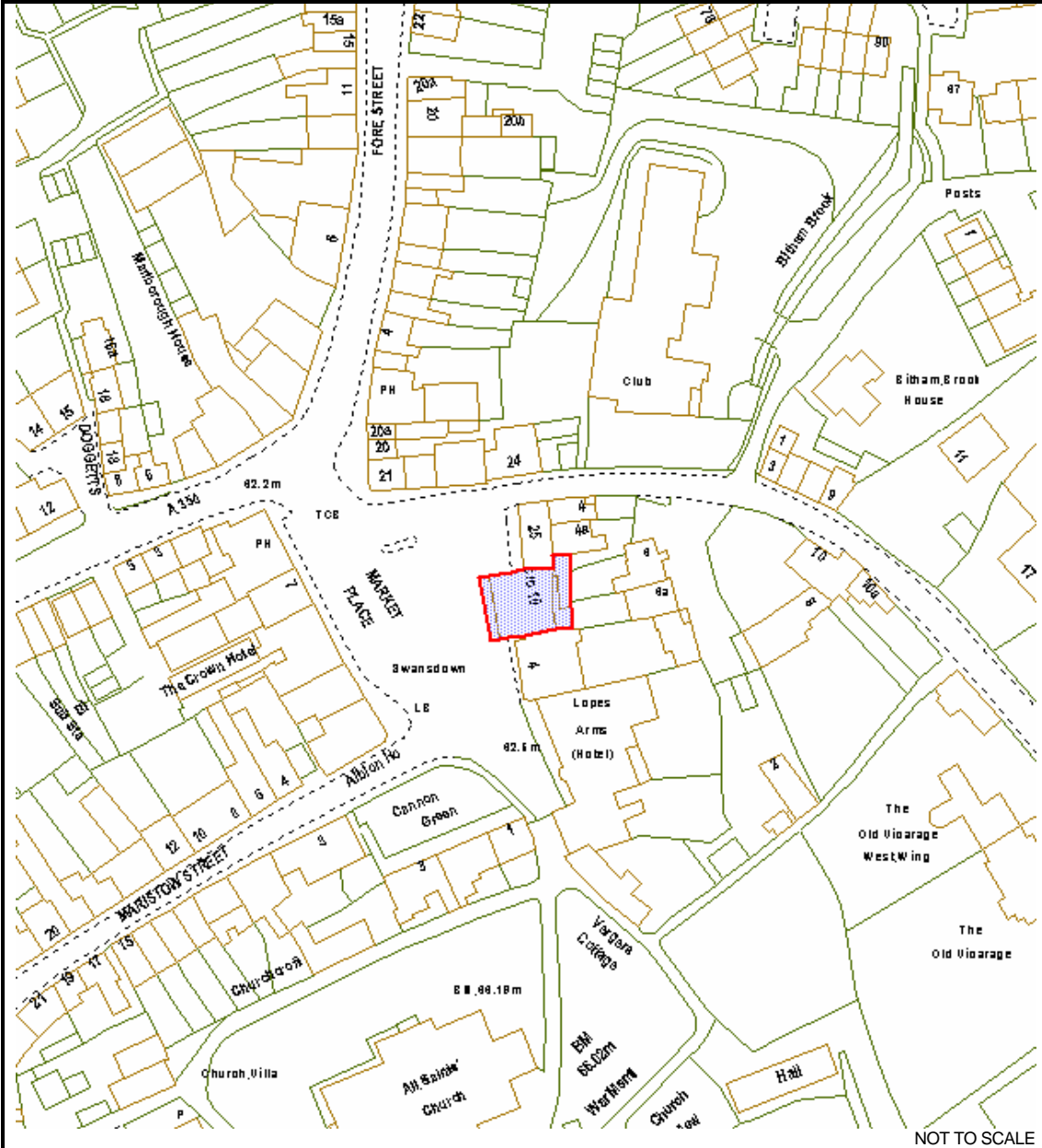
# PLANNING COMMITTEE

3 January 2008

ITEM NO: 10

APPLICATION NO: 07/03387/FUL

LOCATION: Old Town Hall Market Place Westbury Wiltshire BA13 3DQ



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SLA: 100022961

**10 Application: 07/03387/FUL**

**Site Address: Old Town Hall Market Place Westbury Wiltshire BA13 3DQ**

Parish: Westbury Ward: Westbury Laverton  
Grid Reference 387393 151524  
Application Type: Full Plan  
Development: Continued use of premises as a restaurant with the removal of Condition 1 on planning permission 01/00823/FUL  
Applicant Details: Mr Colin Walker  
21 Branksea Ave Poole Dorset BH15 4DW  
Agent Details: Nash Partnerships  
FAO Mr C Beaver Somerset Coalhouse 23A Sydney Buildings  
Bath BA2 6BZ  
Case Officer: Mr Matthew Perks  
Date Received: 30.10.2007 Expiry Date: 25.12.2007

**REASON(S) FOR RECOMMENDATION:**

**The removal of this condition will enable the premises to provide a takeaway service ancillary to a restaurant, and other controls in the form of listed building consent are in place to protect the appearance and character of the listed building.**

**RECOMMENDATION: Permission**

**Condition(s):**

1 The hours of operation shall be limited to between 0900 and 2300 on Mondays to Thursdays, 0900 to 2330 on Fridays and Saturdays, and 1230 and 2230 on Sundays and Bank Holidays.

REASON: In order to safeguard the amenities of the area in which the development is located.

POLICY: West Wiltshire District Plan - 1st Alteration 2004 - Policy C38.

2 In order that the Local Planning Authority shall reserve full control over subsequent uses of the site, and thereby safeguard the use as A3 (restaurant and café) under the terms of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 1995, any food for sale off the premises shall be ancillary to the A3 use.

REASON: In order to define the terms of the permission.

3 Prior to the premises being brought into use, a scheme providing for the adequate storage of refuse shall be submitted to and approved by the Local Planning Authority. The scheme shall be maintained at all times thereafter.

REASON: In order to safeguard the amenities of the area in which the development is located.

POLICY: West Wiltshire District Plan - 1st Alteration 2004 - Policy C38.

- 4 Suitable ventilation and filtration equipment shall be installed to suppress and disperse any fumes and/or smell created from the cooking operations on the premises. Details of the equipment shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. All equipment shall be installed and in full working order to the satisfaction of the Local Planning Authority prior to the commencement of use.

REASON: In order to safeguard the amenities of the area in which the development is located.

POLICY: West Wiltshire District Plan - 1st Alteration 2004 - Policy C38.

- 5 The ventilation equipment shall include a specification for the attenuation of noise and vibration which is to be submitted to and approved in writing by the Local Planning Authority. Any works which form part of the approved scheme shall be completed before the premises are first used, and maintained in effective condition at all times thereafter.

REASON: In order to safeguard the amenities of the area in which the development is located.

POLICY: West Wiltshire District Plan - 1st Alteration 2004 - Policy C38.

## **COMMITTEE REPORT**

### **APPLICATION DETAILS**

This application is brought to Committee because Westbury Town Council object to the proposal and officers recommend Permission.

The application site is the Old Town Hall, Market Place, Westbury. Planning permission was granted in 2001 for the change of use of the premises to an A3 use.

This is an application for the removal of Condition 1 applicable to planning permission Ref. 01/00823/FUL which reads as follows:

"In order that the Local Planning Authority shall reserve full control over subsequent uses of the site, and thereby safeguard the character of the Listed Building and the amenities of the area in which the development is located, the building shall not be used for the sale of food for consumption off the premises."

Supporting documentation to the application states that:

"Our client is in the process of marketing the property for sale as an A3 restaurant, and is concerned that the condition No.1, preventing the sale of food for consumption off the premises may deter prospective occupiers. The property has been vacant for over a year, despite vigorous marketing by local commercial agents, Derek Walker. Given the property's listed status it is important that the building is brought back into beneficial use as soon as possible.

Restaurateur applicants have all expressed the wish to undertake a small scale take away service ancillary to the main restaurant use. This is a usual part of running a restaurant as some customers prefer to eat at home on occasion. They are disappointed when told that the present consent forbids any take away at all. The proposed removal of Condition 1 would enable this normal activity to take place as an ancillary part of restaurant use.

The premises were granted permission for a change of use from offices to an A3 Restaurant in 2001, when the A3 use class included takeaways. As I am sure you are aware the Use Class Order was amended in April 2006 to create a separate A5 Use Class specifically for Takeaways. The creation of the A5 Use Class would act as a safeguard to prevent the ancillary take away service from becoming the dominant use, which would then require a further change of use planning application. In light of the change to the UCO 1987 we do not consider that condition 1 is compliant with the 'necessary' test set out in Circular 11/95, and can therefore be deleted as we have requested."

## **CONSTRAINTS**

The Old Town Hall is a Grade II listed building situated within the town centre commercial area and the Conservation Area.

## **POLICIES**

West Wiltshire District Plan 1st Alteration (2004)  
C17 - Character and appearance of conservation areas  
C27 - Character and setting of Listed Buildings  
C38 - Effects of development on neighbouring properties

## **RELEVANT PLANNING HISTORY**

01/00823/FUL: Change of use from office/retail to A3 use : Permission : 17/08/2001

## **SITE VISIT / STATUTORY SITE NOTICES**

The site was visited on 02/11/2007, when a site notice was put in place.

## **KEY ISSUES**

The only issue in this case relates to the acceptability of the removal of the condition in terms of the likely impact on the listed building and the amenity of the general area.

## **CONSULTATIONS**

### *Parish/Town Council*

The Town Council is of the view that nothing has changed to warrant the removal of the condition. "Use as a takeaway is considered inappropriate for a listed building in such a sensitive site."

The Town Council subsequently re-considered the application in the light of additional information on the wording of the condition. The committee did not wish to change the previous comments. There remains an objection to this application on the grounds that nothing had changed to warrant removal of this condition.

### *External*

Highway Authority

No objection

### *Internal*

Heritage Officer

"I have no objections to this proposal. The use of the premises for take-away food sales would not in itself harm the character of the listed building. Any further signage required due to this take-away use, that would be attached to the building, would require further listed building consent and

therefore control over the character of the building would be maintained. I do not consider that there is a listed building reason to prevent a take-away use in this building."

Environmental Health

No objection.

*Neighbours*

A site notice was posted and 1 letter of response was received objecting to the removal on the grounds that a takeaway use will be inappropriate in this building, there are already too many takeaways in the Market place and lifting the restriction would be contrary to the proposed regeneration of Market Place.

### **OFFICER APPRAISAL**

It is frequently the case for a take-away use to be ancillary to an A3 use, with restaurants offering this service. With A3 uses, any takeaway food sold on an ancillary basis is usually taken home for consumption.

It appears from the wording to the condition that the intent was to avoid harm to the listed building or to the general amenity of the area. Any alteration, affecting the character and appearance of the building would require listed building consent. It is considered that any use that resulted in the primary function of the business becoming a hot-food takeaway an A5 use would require an application for planning permission.

There are no highway objections to the proposal.

The proposed removal of condition is therefore considered acceptable where the building is protected by listed building legislation and the other conditions applicable to the use. Removal would furthermore create a situation where a subsidiary takeaway function normally associated with restaurant would be allowed.

### **RECOMMENDATION**

The condition should be removed.