

# Schedule Of Planning Applications For Consideration

*In The following Order:*

Part 1) Applications Recommended For Refusal

*Part 2) Applications Recommended for Approval*

*Part 3) Applications For The Observations of the Area Committee*

With respect to the undermentioned planning applications responses from bodies consulted thereon and representations received from the public thereon constitute background papers with the Local Government (Access to Information) Act 1985.

## *ABBREVIATIONS USED THROUGHOUT THE TEXT*

<b>AHEV</b>	-	<b>Area of High Ecological Value</b>
<b>AONB</b>	-	<b>Area of Outstanding Natural Beauty</b>
<b>CA</b>	-	<b>Conservation Area</b>
<b>CLA</b>	-	<b>County Land Agent</b>
<b>EHO</b>	-	<b>Environmental Health Officer</b>
<b>HDS</b>	-	<b>Head of Development Services</b>
<b>HPB</b>	-	<b>Housing Policy Boundary</b>
<b>HRA</b>	-	<b>Housing Restraint Area</b>
<b>LPA</b>	-	<b>Local Planning Authority</b>
<b>LB</b>	-	<b>Listed Building</b>
<b>NFHA</b>	-	<b>New Forest Heritage Area</b>
<b>NPLP</b>	-	<b>Northern Parishes Local Plan</b>
<b>PC</b>	-	<b>Parish Council</b>
<b>PPG</b>	-	<b>Planning Policy Guidance</b>
<b>SDLP</b>	-	<b>Salisbury District Local Plan</b>
<b>SEPLP</b>	-	<b>South Eastern Parishes Local Plan</b>
<b>SLA</b>	-	<b>Special Landscape Area</b>
<b>SRA</b>	-	<b>Special Restraint Area</b>
<b>SWSP</b>	-	<b>South Wiltshire Structure Plan</b>
<b>TPO</b>	-	<b>Tree Preservation Order</b>

LIST OF PLANNING APPLICATIONS TO BE SUBMITTED BEFORE THE  
 FOLLOWING COMMITTEE  
WESTERN AREA 29<sup>th</sup> MAY 2008

Note: This is a précis of the Committee report for use mainly prior to the Committee meeting and does not represent a notice of the decision

<b>Item Page</b>	<b>Application No Officer Site Address Description</b>	<b>Parish/Ward Recommendation Ward Councillors</b>
<b>1.</b>	S/2008/0408	DINTON
Pages 4 - 8	Mr W Simmonds	REFUSAL
	WESTFIELDS BUSINESS PARK LTD WESTFIELD PARK DINTON SALISBURY SP3 5BT  ERECT 6 NO. POLES TO PROVIDE EXTERNAL LIGHTING AND CCTV SURVEILLANCE OF THE SITE (PART RETROSPECTIVE)	CLLR PARKER
<b>2.</b>	S/2008/0634	TISBURY
Pages 9 - 13	Charlie Bruce-White	REFUSAL
<b>SV 3:40</b>	SAWMILLS COTTAGE WARDOUR TISBURY SALISBURY SP3 6RJ  RETAIN EXISTING DWELLING (REMOVAL OF CONDITION 6 TO S/2004/2628 REQUIRING DEMOLITION OF EXISTING DWELLING PRIOR TO OCCUPATION OF EXTENDED DWELLING)	CLLR BEATTIE  CLLR MRS GREEN
<b>3.</b>	S/2008/0530	DONHEAD ST MARY
Pages 14 - 17	Charlie Bruce-White	APPROVE WITH CONDITIONS
<b>SV 3:10</b>	FIELD COTTAGE LOWER WINCOMBE LANE DONHEAD ST. MARY SHAFTESBURY SP7 9DB  DETACHED OUTBUILDING FOR USE AS POOL BUILDING & HOME OFFICE & CONSTRUCTION OF SWIMMING POOL	CLLR COLE-MORGAN (IN HIS ABSENCE CLLR FOWLER WILL BE THE POINT OF CONTACT)

<b>4.</b>	S/2008/0012	ALVEDISTON
Pages 18 - 20	Mr Andrew Minting	APPROVE WITH CONDITIONS
	NORRINGTON MANOR ALVEDISTON SALISBURY SP5 5LL  THE OPENING AND DEGLAZING OF WINDOWS TO SUBSIDIARY WING	CLLR COLE-MORGAN (IN HIS ABSENCE CLLR FOWLER WILL BE THE POINT OF CONTACT)

# Part 1

## Applications recommended for Refusal

1

Application Number:	S/2008/0408		
Applicant/ Agent:	MRS S MELLOW		
Location:	WESTFIELDS BUSINESS PARK LTD, WESTFIELD PARK, DINTON SALISBURY SP3 5BT		
Proposal:	ERECT 6 NO. POLES TO PROVIDE EXTERNAL LIGHTING AND CCTV SURVEILLANCE OF THE SITE (PART RETROSPECTIVE)		
Parish/ Ward	DINTON		
Conservation Area:		LB Grade:	
Date Valid:	27 February 2008	Expiry Date	23 April 2008
Case Officer:	Mr W Simmonds	Contact Number:	01722 434553

### REASON FOR REPORT TO MEMBERS

Further to the resolution of the Western Area Committee on 03.04.08 whereby members resolved to defer the decision pending amendments to the proposed lighting and closed circuit television (cctv) scheme, the applicant has provided further details (attached as Appendix A) in respect of the design of the lighting and cctv systems, the main points of which are summarised as follows:

#### Lighting scheme

- The angle of the lighting units has been altered to between 10 and 15 degrees from the horizontal to reduce light spillage and glare.
- The type of luminaires (lighting units) installed (and those proposed) are Dark Sky Compliant with full horizontal cut-off and an upward light ratio of 0%.
- The applicant's supplementary information has demonstrated the lighting scheme to be compliant with Government guidance and the AONB group's Position Statement on Light Pollution.

#### Closed Circuit Television

- The applicant has provided details of the number, type and location of existing and proposed cctv cameras.
- The applicant has confirmed the cctv system is compliant with the CCTV Code of Practice and BSIA CCTV Privacy Masking Guide to ensure that the property of private residents adjoining the site is not recorded by the cameras.

The application is hereby returned for the further consideration of the Western Area Committee. Should Members be minded to approve the application, the following reason for approval is recommended:

The proposed development is considered to accord with the Policies of the Development Plan, and in particular Policies G2, D3, C2, C5 & C12, and the aims and objectives of PPS 7 and PPS 23, because the proposed external lighting and cctv systems have been shown to be designed so as to mitigate against adverse impacts of light pollution within the countryside of the AONB and the amenity of residents of neighbouring dwellings.

## COMMITTEE REPORT (As at Western Area Committee 03/04/2008)

Planning application S/08/0408 for which HDS did not consider it prudent to exercise delegated powers.

### SITE AND ITS SURROUNDINGS

Westfield Park is an approximately 19.5 hectare site occupying the area to the south of the B3089 Hindon Road in Dinton, between Catherine Ford Road to the east and Bratch Lane to the west, and is within the Cranborne Chase and West Wiltshire Downs Area of Outstanding Natural Beauty. The site was formerly RAF Baverstock prior to planning approval being granted in 1999 for the change of use of 14 former military buildings to B8 storage and one building to B1 office use, whereby Westfields Ltd began operating from the site providing storage within the 14 buildings.

### THE PROPOSAL

The application proposes the erection of six freestanding poles at locations dispersed around the interior of the site to provide security lighting and cctv coverage. The application is in part retrospective as four of the lighting/cctv posts have been constructed and are understood to be operational.

### PLANNING APPLICATION HISTORY

79/360	Deemed app – Car park for council residence & alteration of access on land adjacent to rear of Catherine Ford Road. A 25.10.79	
88/477	18/84 Fire protection measures.	A 8.6.88
88/1540	18/84 New offices – Baverstock Building B86.	A 21.9.88
99/1280	CoU of 14 buildings to class B8 and one building to class B1.	AC 16.10.00
01/1660	Section 73 application to vary condition 4 to planning permission S/99/1280 to permit the use of two hard standing areas for outside storage of vehicles and flower pots.	AC 11.10.01
02/1169	Section 73 application to vary condition 1 to planning permission S/01/1660 to allow ancillary operations outside building on the area marked C (Hatched blue)	AC 24.09.02
05/0269	Retrospective – Retention Of Existing Earth Bunds	AC 07.04.05
06/1886	Vary Condition 1 of planning permission 02/1169 to allow storage of trailers outside building 385	AC 07.12.06
06/2145	Retention of 4 portable offices and 1 portable toilet block	AC 07.12.06
06/2354	Vary condition 2 of planning permission 02/1169 to allow containers to be stacked 3 high outside building 386-389	REF30.01.07
07/2464	External lighting and cctv (part retrospective)	WD 07.02.08

### CONSULTATIONS

WCC Highways: No Highway objection  
Crime Reduction Officer: No objections

Environmental Health:	The lighting is not likely to be a statutory nuisance or detrimental to the amenity of the environment: No objection subject to Condition re curfew time of 11.00 pm
Natural England:	No response received (no objection subject to Condition for previous application reference S/07/2464)
AONB Group:	Recommend refusal as proposal fails to meet the criteria for controlling light pollution within the AONB
Network Rail:	No response received

## REPRESENTATIONS

Advertisement	No
Site Notice displayed	Yes (Bratch Lane gates and Catherine Ford Road entrance)
Departure	No
Neighbour notification	Yes
Third Party responses	Yes – Two emails in support of the proposal on grounds of improved health and safety of workers and site security, One letter and two emails objecting to the proposal on grounds of lack of need for additional lighting at the site, light pollution to nearby residents, impact on wildlife being disturbed by the lights, adverse impact (light pollution) to night sky, adverse impact of proposed cctv cameras on nearby neighbours (overlooking/privacy) and impact of energy consumed by the proposed lights (CO <sub>2</sub> emissions).
Parish Council response	None received at time of writing

## MAIN ISSUES

Impact on AONB  
Impact on neighbour amenity  
Impact on nature conservation

## POLICY CONTEXT

Policies G2 (General Criteria for Development), D3 (Design), C2 (The Rural Environment), C5 (Landscape Conservation), C12 (Nature Conservation), PPS 7 (Sustainable Development in Rural Areas) & PPS 23 (Planning and Pollution Control)

## PLANNING CONSIDERATIONS

The application proposes the erection of six freestanding poles at locations dispersed around the interior of the site to provide security lighting and cctv coverage. The application is in part retrospective as four of the lighting/cctv posts have been constructed and are operational. Each of the posts will provide four fixed angle floodlight units providing 400 watts of illumination per unit.

The applicant has stated the proposed lighting is intended to improve health and safety for persons working at the site in conditions of poor light, and to improve the security of the site.

The application is a resubmission of the previous application (reference S/07/2464) for the lighting and cctv posts which was withdrawn by the applicants pending the submission of additional information.

### Impact on neighbour amenity:

Policy G2 (viii) of the saved policies of the adopted local plan requires that development avoids detriment to public health or pollution to the environment by the emission of excessive noise, light intrusion, smoke, fumes, effluent or vibration.

External illumination of the site has the potential to adversely affect the amenity of nearby residents, principally through glare and light trespass. Following the resubmission of the current

application with additional technical information and with the angle of the lighting units being angled down as shown in the photographs submitted by the applicant, the Environmental Health officer makes no objection to the proposed development, subject to the imposition of a Condition preventing the use of the lights after 11.00 pm.

The presence of cctv cameras within the site has the potential to result in the overlooking of neighbouring residential premises, or to create the perception of being overlooked. The applicant has stated that cctv cameras will be programmed to only record images from within the boundary of the site, however it is accepted that this may be difficult to monitor and enforce. It should be noted that permitted development rights would allow multiple cctv cameras to be installed on each of the buildings within the site (up to four cameras on the side of each building, subject to conditions) without the need for planning consent.

#### **Impact on nature conservation interests:**

The Governments advisory paper 'Lighting in the Countryside – Towards Good Practice' states that "the ecological effects of artificial lighting are still poorly understood, but an appreciation of the main impacts is nonetheless important. In general terms, ecologists would like to adopt a precautionary approach and to see mitigation of lighting impacts, especially close to sites of high conservation value or to known populations of rare species". Natural England has previously (planning reference S/07/2464) raised no objection to the proposed development, subject to a Condition that mitigation against any effects of the lighting is prepared by a suitably qualified bat consultant and agreed in writing by the Local Planning Authority.

#### **Impact on the AONB:**

Policy C2 of the local plan states that development in the countryside will be strictly limited and will not be permitted unless it would benefit the local economy and maintain or enhance the environment.

Policy C5 deals with development within the Cranborne Chase and West Wiltshire Downs Area of Outstanding Natural Beauty and restricts development that is out of sympathy with the landscape of the AONB.

Planning Policy Statement 7 (Sustainable Development in Rural Areas) makes it clear that nationally designated areas, including Areas of Outstanding Natural Beauty, have the highest status of protection in relation to landscape and scenic beauty and the conservation of the natural beauty of the landscape and countryside should therefore be given great weight in planning policies and development control decisions in these areas.

PPS 23 (Planning and Pollution Control) advises "the need to limit and, where possible, reduce the adverse impact of light pollution, e.g. on local amenity, rural tranquillity and nature conservation" and highlights that light pollution can form a material planning consideration in development control decisions.

The Governments own advisory paper 'Lighting in the Countryside – Towards Good Practice' highlights how the countryside may be sensitive to lighting impacts, and identifies that the presence of dark skies, being areas of countryside which retain a dark sky (sometimes known as 'dark landscapes'), should be recognised, and that such areas often correspond closely with designated landscapes such as National Parks and AONBs. The paper provides advice on designing lighting schemes to mitigate the effects of external illumination, including skyglow, glare, light trespass and scenic intrusion, for example the use of full horizontal cut-off luminaires (shrouds) on lighting units can significantly reduce skyglow.

The Cranborne Chase and West Wiltshire Downs Area of Outstanding Natural Beauty group is particularly concerned about light pollution and dark skies (following the commissioning of a study on light pollution) and has produced a Position Statement on Light Pollution which underlines the sensitivity of the AONB to light pollution and contains advice and criteria to mitigate the impacts of external illumination. Based on these documents the AONB group has concluded that the illumination produced by the twenty proposed floodlights would not be adequately controlled to prevent light pollution to the detriment of the AONB, and strongly recommends refusal of the application.

## **CONCLUSION**

It is considered the principal concern in respect of the proposed development which has not been adequately addressed, and/or could not be adequately mitigated by Condition, is the impact of the proposed lighting on the general amenity of the designated AONB, and in particular the adverse impact of skyglow in the night sky. Whilst the ability to mitigate the impacts of illumination exists as described in the Governments advisory paper 'Lighting in the Countryside – Towards Good Practice', it is considered the applicant has failed to satisfactorily mitigate against the adverse effects of the lighting on the wider surrounding landscape, to the detriment of the existing character of the countryside and the designated landscape of the Cranborne Chase and West Wiltshire Downs Area of Outstanding Natural Beauty. In this respect, and taking into account the Local Plan policies and wider planning guidance detailed above, it is considered that the potential harm caused to the AONB brought about by the proposed development outweighs the benefits brought to the applicant in relation to the security of the site and the enhancement of safety for persons working within the site during periods of poor light.

## **RECOMMENDATION:**

### **REFUSE**

#### **Reasons for Refusal:**

The proposed development, by reason of the lack of mitigation against incidental horizontal and upward (reflected) light emission, is likely to contribute towards skyglow within, and thereby have an adverse and detrimental impact on, the night sky within the designated Cranborne Chase and West Wiltshire Downs Area of Outstanding Natural Beauty, contrary to Policies G2, C2 and C5 of the saved policies of the adopted Salisbury District Local Plan, and the aims and objectives of PPS 7 (Sustainable Development in Rural Areas) and PPS 23 (Planning and Pollution Control).



Application Number:	S/2008/0634		
Applicant/ Agent:	ROBERT PALEY ASSOCIATES		
Location:	SAWMILL COTTAGE, WARDOUR, TISBURY, SALISBURY SP3 6RJ		
Proposal:	RETAIN EXISTING DWELLING (REMOVAL OF CONDITION 6 TO S/2004/2628 REQUIRING DEMOLITION OF EXISTING DWELLING PRIOR TO OCCUPATION OF EXTENDED DWELLING)		
Parish/ Ward	TISBURY		
Conservation Area:	LB Grade:		
Date Valid:	1 April 2008	Expiry Date	27 May 2008
Case Officer:	Charlie Bruce- White	Contact Number:	01722 434682

### REASON FOR REPORT TO MEMBERS

Cllrs Green and Beattie have requested that the application be determined by the Western Area Committee in order to examine the merits of retaining an additional dwelling on the site.

### SITE AND ITS SURROUNDINGS

The site relates to Sawmill Cottage, and its residential curtilage, where a new dwelling has recently been created from the extension and conversion of a former ancillary outbuilding, situated on the site of an historic sawmill. This is situated within an isolated rural location, just north of Old Wardour Castle, and forms part of the Cranborne Chase and West Wiltshire Downs Area of Outstanding Natural Beauty.

### THE PROPOSAL

The recently created dwelling, granted consent under planning application S/2004/2628, was considered to be acceptable in principle, only on the basis that it constituted a replacement dwelling to the existing cottage. Consequently, approval was granted with condition 6 specifying:

*There shall be no occupation of the extended building hereby permitted until the existing dwelling known as 'Sawmill Cottage' has been demolished and the resultant debris has been removed from the site.*

The new dwelling now appears to be either ready or nearly ready for occupation and consent is now sought to remove this condition, in order to retain the existing cottage. The effect would be to make the previous consent, which has not yet been fully implemented, not a replacement dwelling but a new dwelling within the countryside.

**Consequently, the proposal comprises a departure from local and national planning policy and should members be minded to grant approval it is reminded that the application will need to be advertised as a departure from the Local Plan, and will also need to be considered by the Planning & Regulatory Committee.**

### PLANNING HISTORY

210	Wing to cottage to form living room, bathroom, scullery & 2 bedrooms	A 21.02.51
85/1390	Extension and alterations to cottage	AC 02.12.85
94/1024	Conservatory	AC 02.09.94

95/1330	Replacement outbuilding	AC 30.04.97
04/1261	Demolition of one dwelling and development of annex accommodation into dwelling	WD 27.03.04
04/2628	Demolition of existing dwelling & extensions and alterations to sawmills building to form replacement dwelling	AC 30.06.05

## REPRESENTATIONS

Advertisement	No
Site Notice displayed	Yes
Departure	No
Neighbour notification	Yes
Third Party responses	5 letters of objection/concern. Reasons include: <ul style="list-style-type: none"> <li>• Contrary to national and local rural restraint policies and approval would not be adequately justified and likely to lead to an undesirable precedent for new dwellings in the countryside;</li> <li>• Contrary to officer report and aims of previous planning consent, which were reasonable and resulted in welcome improvements to the character of the area;</li> <li>• The retention of the existing dwelling together with the new one would be detrimental to the character of the AONB landscape;</li> <li>• Highway safety implications due to narrow nature of surrounding lanes;</li> <li>• Uncertain parking arrangements for two individual dwellings.</li> </ul>
Parish Council response	Support

## CONSULTATIONS

WCC Highways Officer	On the basis that Condition 6 of the S/2004/2628 planning permission is not complied with, Sawmills Cottage effectively becomes a new dwelling.  I therefore recommend that this application be refused on the grounds that the retention of Sawmills Cottage will result in a dwelling which, being 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 Note 13 which seeks to reduce growth in the length and number of motorised journeys.
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## MAIN ISSUES

1. The acceptability of the proposal given the policies of the Local Plan;
2. Character of the locality and amenity of the street scene;
3. Amenities of the occupiers of adjoining and near by property;

## POLICY CONTEXT

- Local Plan policies G1, G2, H23, H30, C2, C4, C5, R2
- PPS1: *Sustainable Development*; PPS3: *Housing*; PPS7: *Sustainable development in rural areas*; PPG13: *Planning & Transport*.

## PLANNING CONSIDERATIONS

### Principle of development

It is an established principle of local and national planning policy to resist the creation of new dwellings within the open countryside, both for the purposes of preserving the character of the countryside and on the grounds of sustainability where it is considered desirable to direct new development in areas with good access to local services, public transport, amenities and employment.

Consequently, policy H23 of the Local Plan states that:

*Undeveloped land outside a Housing Policy Boundary, Housing Restraint Area, Special Restrain Area or New Forest Housing Policy Area and not identified for development in this Local Plan will be considered to be countryside where the erection of new dwellings will be permitted only where provided by policies H26 [Affordable Housing] or H27 [Housing for Rural Workers] of this Local Plan.*

Although new residential development in the countryside is generally considered unacceptable, it is recognised that there may be cases where existing dwellings are in poor condition and could reasonably be replaced, and consequently policy H30 makes provisions where new dwellings are created as a result of replacing an existing dwelling, on a one for one basis.

Therefore, it was only on these policy grounds that the new dwelling adjacent to Sawmill Cottage was permitted, and the reason why condition 6 of the previous consent was necessary. The demolition of Sawmill Cottage is required for the previous consent to be in accordance with policy, so that the development for the new dwelling does not result in an additional unjustified dwelling in the countryside.

In order for the development to be approved, which would be contrary to local and national planning policy, a significant justification has to be put forward based upon material planning grounds. The applicant's justification is based on three main grounds, and a critical examination shall be undertaken below:

#### **1) The former outbuilding was used for residential purposes use in any instance:**

Immediately prior to the conversion and extension of the outbuilding to create the new dwelling, it was used as a detached garage/studio to Sawmill Cottage. The outbuilding was originally granted consent under application S/1995/1330, to replace the extensive dilapidated sawmills buildings, for the purposes of providing a studio, workshop, garage and home office. Although the outbuilding was large, it was considered reasonable given that it was smaller and of a more appropriate design than the buildings it was to replace. Consent was, however, only granted on the basis that it was used for purposes incidental to the enjoyment of the main cottage, and a legal agreement was also entered into, preventing it being sold off or leased as a separate dwelling.

The applicants contend that a significant part of the outbuilding had a residential use, containing a bedroom, bathroom and kitchen, and that it was used as a residential annexe. This implies that since the outbuilding was used as a self contained residential unit, that there were effectively two dwellings on site in any instance. Such an argument is considered incorrect for two reasons:

The outbuilding did not have an authorised use as a self contained residential annexe, with its use controlled by condition 4 of consent S/1995/1330 for purposes "incidental to the enjoyment of the associated dwelling". Planning case law clearly establishes that facilities such as such bedrooms, kitchens and livingrooms cannot be regarded as "incidental", and further planning permission would have been required for such a use of the building.

Even if the outbuilding had an authorised use as a residential annexe, it is not considered that such accommodation can be regarded in the same way as an independent, second dwelling on the site. Such annexe's are effectively regarded as extensions, albeit detached, to the main dwelling they serve, and may be justified only on the grounds of a temporary need for

accommodating a dependent relative/s, such as an elderly member of the immediate family, as per the aims and objectives of policy H33 of the Local Plan (Accommodation for Dependent Persons).

**2) The visual impact of allowing two dwellings is not significantly greater than the previous situation:**

The appropriate base from which to assess the additional visual impact of the current application to retain Sawmill Cottage is the state of the site at the time the previous application was made. At this time, there existed Sawmill Cottage and its outbuilding. Cumulatively, it is accepted that these buildings, even then, were relatively prominent within the landscape. However, in itself this fact is not sufficient to permit further development within the countryside that is not justified on reasonable planning grounds. The justification for permitting extensions to the outbuilding, which was already quite a significant sized building, was that it would be replacing the existing dwelling on site, and it was considered that this would result in improvements to the visual appearance of the area, resulting in a net reduction in the overall visual impact of built development on the site.

Looking at the application another way, it would be reasonable to ask whether the extensions to the outbuilding would have been permitted were they merely to provide additional accommodation for an ancillary outbuilding. Given the extent of the existing outbuilding at that time, it is likely that such an extension to an outbuilding would have been considered excessive and unjustified, and would not have provided a clear overriding need that outweighs the national and local planning policy presumption against development in the countryside.

**3) Policy H30 has been applied inconsistently:**

Criteria (iii) of policy H30 states that the siting of a replacement dwelling should be closely related to that of the existing dwelling. The applicant argues that the new dwelling was permitted contrary to this criteria, and therefore the policy was not relevant in the reasoning for approving the new dwelling. On this basis, it is therefore contended that the condition to demolish the dwelling is not necessary or reasonable. Such an argument is considered incorrect for two reasons:

The fundamental principle of policy H30 is that dwellings in the countryside can be replaced on a one for one basis, on the provision that the proposal meets the objective of preserving the character of the countryside. The criteria of the policy are designed so as to assist proposals in meeting this objective. The criteria are therefore not necessarily prescriptive since, if it can be demonstrated that the objective of preserving the character of the countryside is met within a proposal, there may be some scope to deviate from a particular criteria, whether it be related to siting, scale, design or materials. Consequently, it is not considered that the Council's interpretation of policy H30 within the previous application prejudices in any way the basic principle upon which permission was granted, i.e. that the new dwelling was acceptable since it represented a replacement dwelling. The decision notice which granted approval clearly refers to this fact.

Notwithstanding the above, it is noted that the Local Plan does not define what is meant by "closely related" in terms of the siting of a replacement dwelling. The new dwelling could be construed as being closely related to Sawmill Cottage, in that it would still be within its residential curtilage, and on the same site as one of its former ancillary buildings.

**CONCLUSION**

The applicant has failed to give sufficient justification to permit a new dwelling within an isolated rural location, which would be contrary to the national and local planning policy presumption against development in the countryside and principles of directing new residential development towards sustainable locations.

**RECOMMENDATION:**

**REFUSE**

**Reasons for refusal:**

1. Consent has previously been granted by the Local Planning Authority for a replacement dwelling in the open countryside, based upon sound planning reasons, notably relating to policy H30 of the Salisbury District Local Plan. Since the siting of the proposed dwelling did not overlap the footprint of the one it was to replace, a planning condition was imposed to require the demolition of the original dwelling upon the completion of the replacement.

It is now proposed that this planning condition be removed, so that both the original and its intended replacement remain. This would constitute the creation of an additional dwelling within an isolated rural location and such development would be contrary to the national and local planning policy presumption against development in the countryside, both for the sake of preserving its natural beauty and for the reasons of directing new residential development towards sustainable locations.

The development would therefore be contrary to the aims and objectives of PPS1, PPS3, PPS7, PPG13 and saved polices G1, G2, C2, C4, C5, H23 and H30 of the adopted Salisbury District Local Plan.

2. The proposed residential development is considered by the Local Planning Authority to be contrary to saved policy R2 of the adopted Salisbury District Local Plan because appropriate provision towards public recreational open space has not been made.

**INFORMATIVE:**

It should be noted that the reason given above relating to Policy R2 of the adopted Local Plan could be overcome if all the relevant parties can agree with a Section 106 Agreement, or, if appropriate by a condition, in accordance with the standard requirement of public recreational open space.

## Part 2

### Applications recommended for Approval

3

Application Number:	S/2008/0530		
Applicant/ Agent:	T F H REEVE		
Location:	FIELD COTTAGE LOWER WINCOMBE LANE DONHEAD ST. MARY SHAFTESBURY SP7 9DB		
Proposal:	DETACHED OUTBUILDING FOR USE AS POOL BUILDING & HOME OFFICE & CONSTRUCTION OF SWIMMING POOL		
Parish/ Ward Conservation Area:	DONHEAD ST MARY		
Date Valid:	13 March 2008	LB Grade:	8 May 2008
Case Officer:	Charlie Bruce-White	Contact Number:	01722 434682

#### REASON FOR REPORT TO MEMBERS

Councillor Fowler has requested that the application be determined by Committee due to concerns expressed by the parish council over the extent and scale of development and its visual impact within the AONB.

#### SITE AND ITS SURROUNDINGS

The site relates to a thatched cottage and its curtilage, situated off Lower Wincombe Lane, to the west of Donhead St. Mary. The site is within the countryside and AONB.

#### THE PROPOSAL

Consent is sought for the erection of an outbuilding, to be used as a home office and poolhouse to a proposed swimming pool.

#### PLANNING HISTORY

81/0817	Extension	AC	13/08/81
82/0187	Part demolition of existing dwelling & re-erection of new dwelling	AC	12/05/82
95/1398	Extension to provide larder/bootroom	AC	15/11/95

#### REPRESENTATIONS

Advertisement	No
Site Notice displayed	Yes
Departure	No
Neighbour notification	No
Third Party responses	No

Parish Council response

Original plans (two storey)

The proposal to demolish a single storey garage and replace it with a two storey building three times the size would have considerable visual impact which will not protect nor enhance the natural beauty of the area and would not benefit the economy. This proposal is considered to be an overdevelopment of the site.

Amended plans (single storey)

Whilst the proposed building has now been reduced to single storey it is still felt that the size of the building is incompatible in visual terms, representing an overdevelopment of the site that will not enhance the natural beauty of the area.

## **MAIN ISSUES**

1. The acceptability of the proposal given the policies of the Local Plan;
2. Character of the locality and amenity of the street scene;
3. Amenities of the occupiers of adjoining and near by property.

## **POLICY CONTEXT**

Local Plan policies G1, G2, D3, C4, C5

*PPS7: Sustainable development in rural areas*

## **PLANNING CONSIDERATIONS**

### **Principle of development**

Local Plan policy D3 states that the development of ancillary buildings within the curtilage of dwellings will be permitted where: i) the proposal is compatible in terms of scale, design and character of the existing property and use of complementary materials; and ii) the development is integrated carefully in relation to other properties and the overall landscape framework.

The highest regard should be given to criteria (ii) of the above policy in the case of the application site given its location within the AONB.

### **Impact upon visual amenity**

The originally submitted plans included a one and a half storey thatched outbuilding, with the office accommodation set at first floor level. Whilst the proposed design of the outbuilding was considered to reflect the character of the existing dwelling, it was considered that, due to a combination of its exposed siting and excessive height, it would have a detrimental impact upon the character and appearance of the AONB landscape. This is generally in line with the view of the Parish Council.

Subsequently, however, the applicant has taken note of these concerns and submitted amended plans for the outbuilding. The outbuilding now proposed would be single storey only, with a natural slate roof proposed in order to reduce its height as far as reasonably possible. Its height to eaves level would be 2 metres, rising to 3.8 metres to the ridge. Furthermore, the level of the garden is set on slightly lower ground than the adjacent street level, thus further reducing the impact of the building's height. Although the length of the outbuilding has been moderately increased, in order to retain the building's dual functionality of office and poolhouse, from the wider landscape the outbuilding would have a considerably lesser impact than the original scheme, and is now considered acceptable in wider landscape terms.

From the more local level, in particular the streetscene of Lower Wincombe Lane, the east (end) elevation of the outbuilding, together with its roof and walled elevation to the street, would be visible. The outbuilding would be built right up to the boundary with Lower Wincombe Lane, so that the road facing elevation would effectively be built as the boundary wall, and a section of new stone wall would continue along the boundary at a lower height, similar to that of the

existing boundary treatment. Although the garden facing elevations of the building would include more intricate detailing, the streetscene elevations would be of a simple appearance, appropriate to the rural character of the area. The existing timber shed, which is of no particular merit, would be removed. Regarding materials, the outbuilding and boundary wall would be constructed of natural stone, to match the existing cottage and wall, with a natural slate to tile the roof which is a typical material within the locality. A planning condition can be imposed to agree precise details of the finish of materials, including sample panels.

Regarding the swimming pool, due to its close proximity to existing and proposed boundary treatment, and its reasonably modest size, it is not considered that there would be harmful views of the pool from the wider AONB landscape.

In order to control potential light pollution, it is considered reasonable to remove permitted development rights to light the pool or externally light the outbuilding.

### **Impact upon neighbouring amenity**

Due to the relatively isolated nature of the site, it is not considered that neighbours would be affected.

### **CONCLUSION**

Although the site is sensitive in landscape terms, the amended plans are considered to result in an outbuilding that would be of an appropriate scale and design, that would not harm the character of the streetscene or wider AONB landscape. The proposed swimming pool is considered to be well screened and of an appropriate size, so that it too would have limited impact within the AONB. Conditions can be imposed to secure appropriate material finishes and to prevent inappropriate external lighting within the countryside. The development would therefore be generally in accordance with the aims and objectives of the development plan.

### **RECOMMENDATION:**

#### **APPROVE**

#### **Reasons for approval:**

Although the site is sensitive in landscape terms, the amended plans are considered to result in an outbuilding that would be of an appropriate scale and design, that would not harm the character of the streetscene or wider AONB landscape. The proposed swimming pool is considered to be well screened and of an appropriate size, so that it too would have limited impact within the AONB. Conditions can be imposed to secure appropriate material finishes and to prevent inappropriate external lighting within the countryside. The development would therefore be generally in accordance with the aims and objectives of the development plan.

#### **Subject to the following conditions:**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. This development shall be in accordance with the amended drawing[s] ref: CB/1001/R (which reduced the height of the outbuilding to single storey) deposited with the Local Planning Authority on 29/04/08, unless otherwise agreed in writing by the Local Planning Authority.
3. Before development is commenced, a schedule of external facing materials shall be submitted, and, where so required by the Local Planning Authority, sample panels of the external finishes shall be constructed on the site and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
4. There shall be no lighting of the swimming pool or external lighting of the outbuilding hereby permitted, unless otherwise agreed in writing with the Local Planning Authority.



**The reasons for the above conditions are listed below:**

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990. As amended by Section 51 (1) of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt.
3. To secure a harmonious form of development, in the interests of the character of the area.
4. In the interests of controlling light pollution within the AONB.

**And in accordance with the following policies of the adopted Salisbury District Local Plan:**

Policy G1	Sustainable Development
Policy G2	General Development Guidance
Policy D3	Design of extensions and outbuildings
Policy C4	AONB
Policy C5	AONB

Application Number:	S/2008/0012		
Applicant/ Agent:	T F H REEVE		
Location:	NORRINGTON MANOR NORRINGTON ESTATE ALVEDISTON SALISBURY SP5 5LL		
Proposal:	THE OPENING AND DEGLAZING OF WINDOWS TO SUBSIDIARY WING		
Parish/ Ward	ALVEDISTON		
Conservation Area:	LB Grade:	I	
Date Valid:	2 January 2008	Expiry Date	27 February 2008
Case Officer:	Mr Andrew Minting	Contact Number:	

### REASON FOR REPORT TO MEMBERS

A member of the council staff resides at Norrington and their spouse is a trustee of the applicant.

### THE PROPOSAL

The opening and deglazing of windows to subsidiary wing.

### PLANNING HISTORY

- S/1984/1258 L/b application - take down double chimney stack and rebuild into single chimney stack, reduced height. AC 17/10/84
- S/1991/0076 L/b application - removal of damaged breeze block chimney and chilmark stone gable end wall to level of first floor window sill and rebuilding with Chilmark stone. AC 13/03/91
- S/2007/1852 The opening and reglazing of windows to subsidiary wing. WD

### CONSULTATIONS

English Heritage – received 07/02/08

*"We have no objection to the proposals to remove obscure glazing at ground floor level and replacement with leaded lights. In order to judge the impact of the proposal to remove the blocking from the first floor windows and install leaded lights more information is required on the history and significance of the blocking of these windows. If the blocking is historic then a judgement needs to be made of its significance as part of the evolution of the building. For example, is it the result of a window tax or a [sic] interior replanning? We suggest that this information is provided so that the proposals can be fully considered."*

And in an email to the agent, copied to the LPA, on 07/03/08

*"Thank you for sending images showing the leaded lights at Norrington. This shows that the windows were glazed and therefore the reinstatement is based on evidence. The only issue it does not address is when and why the windows were blocked. As the re glazing of these windows would improve the aesthetic value of the property. This may off set the loss of later fabric."*

### REPRESENTATIONS

- Advertisement Yes – expiry 07/02/08
- Site Notice displayed Yes – expiry 07/02/08

Departure	No
Neighbour notification	No (none near)
Third Party responses	No
Parish Council response	None

## **MAIN ISSUES**

Impact on character of grade I listed building.

## **POLICY CONTEXT**

CN3 of Salisbury District Local Plan (Adopted 2003).

## **PLANNING CONSIDERATIONS**

The proposal is for the re-opening of two first floor windows in the south west wing, and to reglaze the two ground floor windows below them. The ground floor windows are mid-20<sup>th</sup> century obscure-glazed metal casements of no particular merit and the proposal to reglaze these is not problematic as it will restore the windows to a more appropriate glazing style and will enhance the property. The first floor windows are slightly more troublesome as it is very difficult to date the infilling without opening them up. The agent in the design statement suggests that they may have been blocked in the 19<sup>th</sup> century and that the infill is of brick; he has since, further to English Heritage's letter of 7<sup>th</sup> February, carried out some research at the National Monuments Record and provided an archive photograph from 1944 which shows a ground floor window and two at first floor level. (This is shown on drawing TRSSPO/02). One of the windows at first floor level has previously been opened up, probably in the 1960s, while the other has some damage, showing that the historic leaded light window survived behind a layer of what appears to be plaster; it looks like there may be lath and plaster on the inside of the window too, although it is hard to tell for sure. The leaded glazing is in a diamond pattern rather than the rectangular proposed and it may be more appropriate to follow this former pattern in the new windows, and the agent has since amended the plans at our request to show this detail. The ground floor window which is shown in the photo to be half glazed and half blocked with plaster, now has one of the Crittal metal windows which is proposed to be replaced.

## **RECOMMENDATION:**

### **APPROVE**

The works will have no adverse impact on the character of the listed building, and should improve the façade of the south west wing and the setting of the principal part of the house. The opening up needs to be carefully executed to preserve any surviving historic fabric inside the blocked up windows, and this can be controlled by condition.

### **Reasons for approval:**

The works would have no adverse impact on the character of the listed building, and should improve the façade of the south west wing and the setting of the principal part of the house.

### **Subject to the following conditions:**

1. The development for which permission is hereby granted must be commenced not later than the expiration of three years beginning with the date of this permission.  
(Z01B)

Reason: To comply with the provisions of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by Section 51 (4) of the Planning and Compulsory Purchase Act 2004. .0006 AMENDED

2. The opening up of the windows hereby approved shall be done carefully using hand tools only, unless otherwise agreed in writing by the local planning authority.

Reason: To safeguard any surviving historic fabric contained within the infill panels.

3. This development shall be in accordance with the amended drawing ref: TRSSPO/02 deposited with the Local Planning Authority on 06/05/08, unless otherwise agreed in writing by the Local Planning Authority. (B01A)

Reason: For the avoidance of doubt.

4. A comprehensive step-by-step photographic record of the opening up hereby approved shall be made and a copy sent to the local planning authority.

Reason: To ensure adequate recording of the alterations and materials found during the works.

**And in accordance with the following policies of the Adopted Salisbury District Local Plan:**

CN3 and CN8

**INFORMATIVE:**

In the event of any features of interest not already described in this application being uncovered, please contact the local planning authority for advice and site inspection.

## Appendix A

Letter from Sam Mellow of Woolley & Wallis providing further information in respect of lighting and cctv at Westfield Park, Dinton.

www.w-w.co.uk

Commercial & Industrial Property

St Thomas's Square, Salisbury, Wiltshire SP1 1BA  
Telephone: 01722 330333 Facsimile: 01722 412130  
mail@commercial.w-w.co.uk

Appendix A

Mr W Simmonds  
Development Services  
Salisbury District Council, Planning Offices  
61 Wyndham Road  
Salisbury SP1 3AH

Ref - SRM/Westfields

12<sup>th</sup> May 2008

Dear Mr Simmonds

S/2008/0408 - WESTFIELD PARK, DINTON

In response to the outcome of the Western Area Committee meeting on 7<sup>th</sup> February 2008, please find enclosed the further information requested regarding the lighting and the CCTV.

I hope you will now agree that my clients do meet the requirements of the Governments paper on Lighting in the Countryside and that they have done enough to satisfy the AONB.

In addition I still feel that a visit to site at night should have happened before it went to the committee as they would have then been in a better position to make a decision. So if you or any of the members wish to visit the site at night my clients will be more than happy to show them or you around.

If there is anything further you need please do not hesitate to contact me.

Yours sincerely



Mrs Sam Mellow BA (Hons) MRICS  
s.mellow@w-w.co.uk  
Encs.

Salisbury District  
Planning Department

Rec.	13 MAY 2008
Acknowledged	.....
Copy to	.....
Action	WS

**Partners:**  
William Verdon-Smith MA FRICS  
Richard Sharland FRICS FAAV  
John Woolley FRICS FAAV  
Andrew Cochran BSc MRICS  
Colin Scott FNAEA  
Andrew Donald MNAEA  
Richard Nocton FRICS FAAV  
Julian East FNAEA  
Ben Marshall MSc MRICS  
Jonathan Young FRICS FAAV

**RESIDENTIAL**

**LAND & NEW HOMES**

**COMMERCIAL**

**FARM & RURAL**

Salisbury 01722 424524 Romsey 01794 512129 Ringwood 01425 472421  
Fordingbridge 01425 655900 Marlborough 01672 515252 Shaftesbury 01747 852242 Lyminster 01590 689878  
Commercial and Industrial Property Department at St Thomas Square Salisbury SP1 1BA 01722 330333  
Associated with Woolley & Wallis Salisbury Salerooms Ltd 01722 424500



**AMC Agents**

Consultants: John Twentyman FRICS FAAV Christopher Gibb FRICS Stephen Boyes-Lee FNAEA



**Associates:**

John Savage MNAEA  
Philip Palmer FNAEA  
Robert Horton BSc (Hons) MRICS  
Dougal Trentham MNAEA  
Anthony Bolton  
Nigel Stubbs  
Christopher Herring MRICS

**Practice Manager:**

Jude Rosier

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**FURTHER INFORMATION REGARDING THE LIGHTING PROPOSED AT  
WESTFIELDS PARK, DINTON**

**Lighting**

This information has been prepared following further advice from Dextra Lighting, the manufacturers and makes reference to the AONB's Document on lighting (AONB document), the Government's advisory paper, 'Lighting in the Countryside - Towards good practice' (LITC-TGP paper), and the Bat Conservation Trust's lighting document (BCT's Document).

Firstly looking at the advice set out in the AONB's Document.

- The table on page 12 referring to flood lights states that the main problem is glare caused by lights being incorrectly aligned.
- Pages 17 & 18 refer to proposed installations and the documents that should be referred to when considering a new scheme.
- Page 22 details how to choose the correct type of lamp for the use and also promotes the use of Dark Sky Compliant lights which are described as those that have Full Horizontal Cut off and a UPR of no more than 3%. In addition it refers to items that luminaires could have added to them or should be built within them to reduce glare.
- Page 30 gives a list of 5 requirements the AONB would like to see proven or compiled with to prove that lighting is necessary.
- 7.4 in the appendix give details of the different lamps that are used in Dorset for different uses.

The below points show how Westfield Park have complied with the above advice:

- Westfield have admitted that initially the angling of the lights were not correct as they were not fitted by Dextra. They have now been correctly angled at between 10-15% from the horizontal and therefore no longer cause spillage or glare.
- Dextra Lighting complies with all of the recommendations from the CIBSE which in turn have influenced the Governments advisory paper.
- The type of luminaire that has been installed and is proposed for the remaining poles are Dark Sky Compliant with Full Horizontal Cut-off and a UPR of 0% at their current alignment.
- The Luminaires have flat-glass optics rather than convex lenses. The back lining behind the lamp is baffled as you can see in the pictures previously supplied and the luminaire itself acts as a cowl or hood as the lamp is set at the rear of the luminaire. These are all detailed on page 22.

In addition Dextra have told us that if there were further hoods or cowls fitted around the luminaires, the lights would not work efficiently as they would be so restricted that more lamps would be required to light the area and this would increase energy consumption.

- The list from A-E gives details of five things that the AONB look at they are –
  - A. To prove that the lights are essential for health and safety. – During the winter months the site is still open for business when it is dark. Also throughout the year a security guard is on site 24 hours a day, the lights will improve his safety whilst patrolling the site during hours of darkness.
  - B. The lights are directed down and designed to prevent upward and outward spillage. - The luminaires are now directed down and they have full horizontal cut off, they do prevent uncontrolled outward spillage, if they were any more restricted then as I have previously mentioned more lights would be required.
  - C. The light colour is appropriate for the wider settling. – If you refer to 7.4 in the appendix it lists the various different light types, the one we have is a warm white light that provides excellent colour rendering and is required for the CCTV to work as stated in the guidance.
  - D. Not to highlight an unattractive structure. - The buildings that are lit up can not be seen for outside the site.
  - E. To be Energy efficient. – My client has been recommended the most energy efficient lights for the purpose by Dextra.
  
- The lamp types detailed in 7.4 of the appendix has been dealt with above under C above. The section also deals with 3 categories of obtrusive light which I feel that we have now covered, they are:
  - a) Sky Glow - This is no longer the case as the luminaires do have full horizontal cut off and are now correctly aligned.
  - b) Glare - The lights can not be causing glare to pedestrian, motorists or cyclists as they can not be seen from outside the site.
  - c) Light Trespass - Now that the lights are correctly positioned the light does not shine outside of the site and as is shown by Dextra's luminance simulation documentation even the proposed lights will not shine outside of the boundary.

Moving on now to the advice detailed in the LiTC-TGP paper.

A lot of the advice is dealt with in the AONB's guidance, however below are items which further confirm the main requirements for lighting the countryside.

- Section 1.3 refers to existing documentation that is available relating to lighting guidance. The second document it refers to is the CIBSE paper which as previously stated Dextra complies with when designing their products.
  
- 2.3.2 Luminaires, give detail about the different types of luminaire and states that the types with Full Horizontal Cut-off can minimise Sky Glow.
  
- 2.4 talks about lighting design and states that lighting itself is only a problem when it is excessive, poorly designed, or badly installed. The lights were designed by Dextra to provide lighting the areas required with the minimum of luminaires required and as previously stated are now correctly installed.



- There is a case study in section 9.3 of the document regarding J Sainsbury in Ferndown, Dorset where they have erected 10m high poles which have been painted black so that they do not reflect light from the sun. They are placed at 30m intervals with luminaires that have full horizontal cut-off. They received an award from BAA Campaign for Dark Skies for their lighting as it maintained a balance between safety and the need to prevent over-lighting.

At Westfield Park the proposal is for 7-8m poles to be erected that are painted with matt blue paint as this blends with the colour of the original RAF buildings and also eliminates glare from sun reflection. If the pole were any lower there would be a need for a greater number of lighting poles and luminaires around the site. The luminaires have full horizontal cut-off and look no different from the ones pictured in the case study.

Lastly the BST's document adds the following advice in relation to Mitigation of Lighting impacts on Bats:

- The Impacts on bats section refers to avoiding the illumination of Bats roosts, we are aware that there is a roost in the Chilmark Quarries which is located to the west of Dinton. The BST document says that lighting can be harmful where it lights up areas of riverside and woodland where bats maybe foraging.

As the Roost is within foraging distance we spoke to a Bat Consultant from the Badger Consultancy, who has said that where there is woodland and rivers close to a village they are more likely to be found there than coming into the village. To the South of Westfield's is the disused railway line and then beyond that is the River Nadder and Fovant Wood so the likelihood of bats flying through the site is minimal. In addition Dextra have ensured that the lights from the southern poles do not illuminate any further than the site boundary. In addition the trees that are along the southern boundary with the railway line will act as a natural barrier for the light.

- It suggests that the type of lamp that it used should be sodium rather than mercury or metal halide however this conflicts with the use of the CCTV as the sodium lights are an orangey colour which do not produce the right type of light for the CCTV to work. Due to the size of the site the CCTV can not be used with infrared as it would require a greater number of cameras to successfully cover the site thus resulting in higher energy consumption.
- The next point refers to luminaire and light spill accessories. It suggests used either a correctly designed luminaire or using accessories such as Cowls or hoods. The luminaires as previously states act as the necessary shielding due to the location of the lamp within the unit.
- The next point is the lighting column, it does acknowledge that in certain cases the use of a higher column maybe preferred as it enables the light to be better angled and reduces horizontal spill.
- It also suggests the use of timers however due to the specification of the lights once the sensor has been activated and the lamp lights up the intruder would have passed by thus rendering the light useless for security purposes.

## Closed Circuit Television

The cameras to be installed are detailed on the attached plan.

There are to be 4 fixed cameras at the front entrance, two on a pole and two on the side of the reception building. There are a further 4 dome cameras to be installed at the various points as indicated on the plan which also coincide with the some of the poles for the lights, these cameras will move 360 degrees.

The cameras which are made by Panasonic and have a range of 50 metres will be installed by Wilton Alarms who have provided us with the relevant documents that the cameras adhere to. I have enclosed the documents which are:

- The CCTV Code of Practice.
- The BSIA CCTV Privacy Masking Guide.

The most relevant document to bring to your attention is the second as local residents are worried that their property is going to be filmed.

The BSIA guide details ways in which cameras can and should be masked to prevent the recording of images that are outside of the surveillance area.

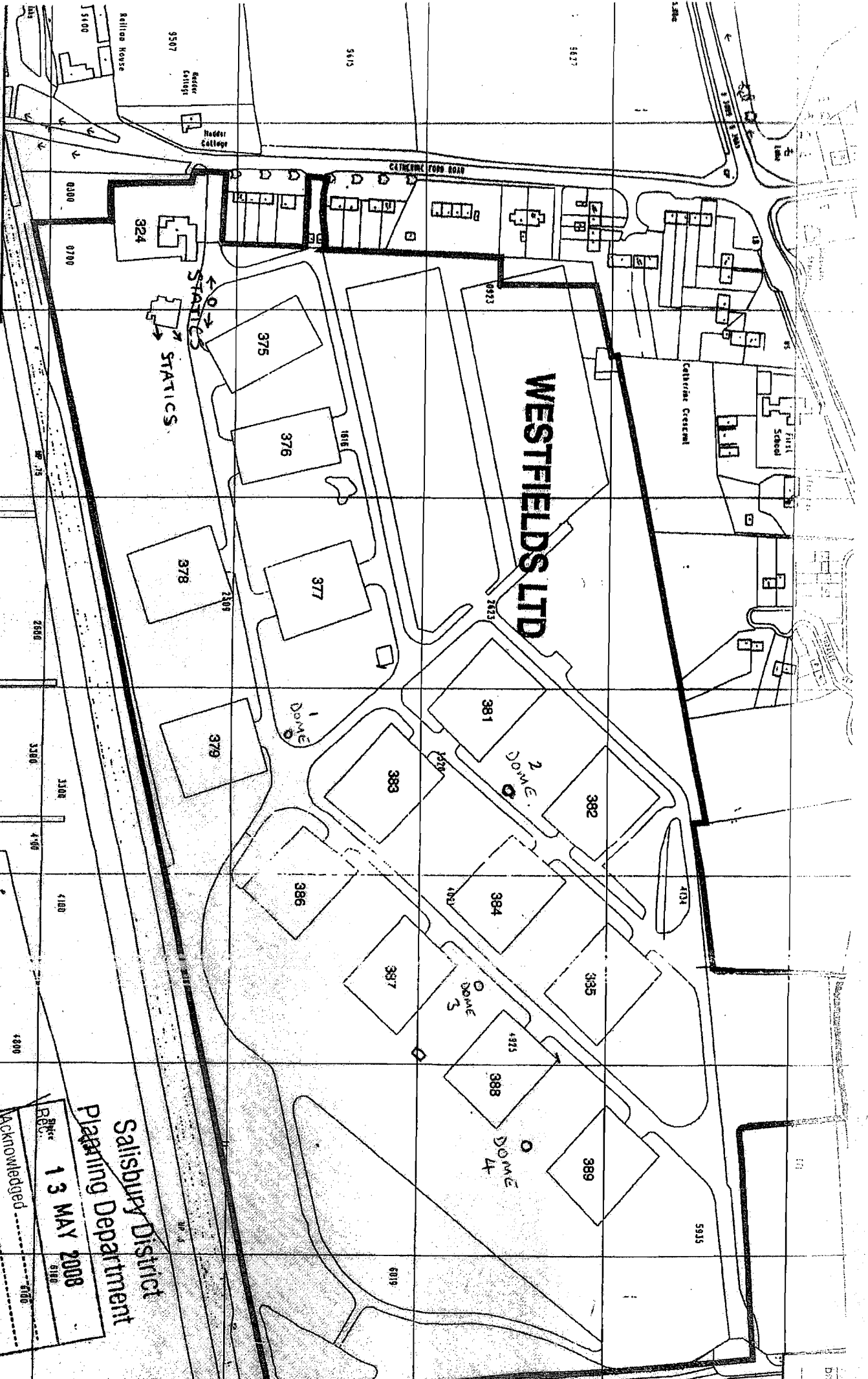
The most relevant chapter of the guide is 2.2.2 which refers to Electronic Masking, it gives the various different ways in which the masking can be applied to the camera and also in 2.1 it states that once the parameters have been set the CCTV should have a key switch or pass code to ensure that unauthorised personnel do not override or alter the positioning, this will be the case at Westfields.

Further to feedback from local residents infrared CCTV has been looked into and the following facts were found:

- The range for infrared cameras is only 20 metres, whereas the proposed have a 50 metre range.
- Infrared cameras record in black and white, whereas the proposed record in colour.
- For each dome camera installed, 8 infrared lamps would be required thus increasing energy consumption.
- To cover the same area as the proposed with infrared cameras a further 6 would need to be installed resulting in a total of 80 infra-red lamps around the site.

The above facts are the reasons why the proposed CCTV cameras were chosen and also why the lights were designing by Dextra to allow the CCTV to work effectively whilst improving health and safety on site and minimising any effects to the night sky or local residents.

is 1998 Ordnance Survey 1:2500 map with the permission of the  
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49, 1 High Street, Wroughton, Swindon, SN4 6JX (Tel 851221)

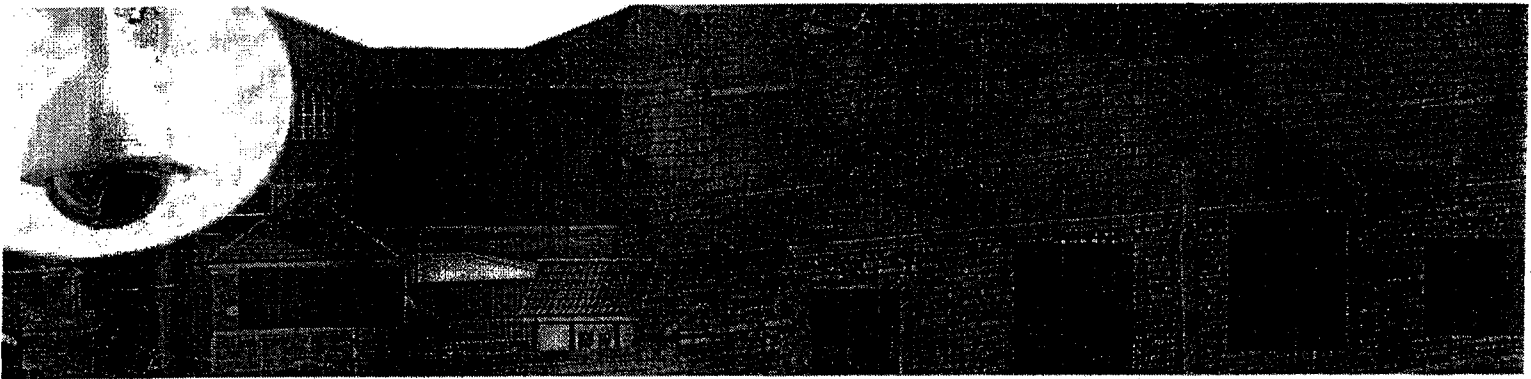


Salisbury District  
Planning Department

Rev: 13 MAY 2008

Acknowledged  
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# CCTV privacy masking guide



Salisbury District  
Planning Department

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October 2006

For other information please contact:

British Security Industry Association  
t: 0845 389 3889  
f: 0845 389 0761  
e: [info@bsia.co.uk](mailto:info@bsia.co.uk)  
[www.bsia.co.uk](http://www.bsia.co.uk)

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# 1 The need for privacy masking

'Privacy Masking' is the common term covering the need to restrict what can be seen by means of Closed Circuit Television (CCTV) systems. It applies equally to images displayed in real time for surveillance purposes and images recorded for later use. There are two key articles of UK legislation that determine the legal requirements for privacy masking, the Human Rights Act 1998 and the Data Protection Act 1998.

## 1.1 The Human Rights Act 1998 (HRA)

The HRA implemented in the UK gives fundamental rights and freedom to everybody, this Act is based on the European Convention on Human Rights (ECHR) and in Article 8 it states that:

*"Everyone has the right to respect for his private and family life, his home and his correspondence"*

## 1.2 The Data Protection Act 1998 (DPA)

The DPA places obligations on people and organisations who hold and use personal data. The DPA sets out eight data protection principles that state the data must be:

- 1) fairly and lawfully processed;
- 2) processed for limited purposes and not in any manner incompatible with those purposes;
- 3) adequate, relevant and not excessive;
- 4) accurate;
- 5) not kept for longer than is necessary;
- 6) processed in accordance with individuals' rights;
- 7) secure;
- 8) not transferred to countries without adequate protection.

To assist in the application of these Data Protection Principles within the operation of CCTV systems, the Information Commissioner published a CCTV Code of Practice (CCTV CoP) in 2000. Key points in the code of practice relating to privacy include, but are not limited to, the following:

*"The equipment should be sited in such a way that it only monitors those spaces which are intended to be covered by the equipment.*

*If domestic areas such as gardens or areas not intended to be covered by the scheme border those spaces which are intended to be covered by the equipment, then the user should consult with the owners of such spaces if images from those spaces might be recorded.*

*Operators must be aware of the purpose(s) for which the scheme has been established.*

*Operators must be aware that they are only able to use the equipment in order to achieve the purpose(s) for which it has been installed.*

*If cameras are adjustable by the operators, this should be restricted so that operators cannot adjust or manipulate them to overlook spaces that are not intended to be covered by the scheme.*

*If it is not possible physically to restrict the equipment to avoid recording images from those spaces not intended to be covered by the scheme, then operators should be trained in recognising the privacy implications of such spaces being covered."*

In addition there will be other legislation that will affect aspects of camera installation such as the Town and Country Planning Order 1995. These may not impact on DPA or HRA issues directly, but may limit how a CCTV system may be installed. Consideration should also be given to other byelaws introduced by local government. These will vary from region to region.

## 2 Methods of restricting camera views

A CCTV system should be designed to limit its coverage so that it does not cover areas or 'spaces', which are outside its intended use. When designing a system, the spaces to be surveyed and those surrounding it should be considered from a DPA and HRA perspective and the level of privacy for each space determined. Should camera fields of view need to overlap one or more of the surrounding spaces, then action must be taken to enforce the DPA and HRA requirements.

There are various methods by which DPA and HRA restrictions may be satisfied. One approach is through the select positioning of the cameras to be used to ensure that private space cannot be seen. Where the camera view does infringe on a private space, then either written permission from the person who owns or resides in that space should be obtained, or physical or electronic image masking should be employed.

### 2.1 Camera positioning

The most effective way to restrict the field of view of a camera is by careful selection of camera position and lens field of view to prevent the camera from overlooking private areas. With fixed cameras this can be relatively straightforward, but with moveable Pan, Tilt and Zoom (PTZ) cameras this may involve setting pan and tilt movement limits either physically or within the control system's settings to restrict the horizontal and or vertical rotation of the unit. If control system settings are used to limit the field of view, it is important to make certain that these are protected via a key switch or pass code so that they cannot be subsequently altered or overridden by unauthorised persons.

### 2.2 Masking

The type of masking used should ensure that when in force, the area to be restricted from view remains private. There are currently two main types of masking, these are:

#### 2.2.1 Physical masking

External physical barriers such as walls, embankments or trees and vegetation in combination with camera positioning can be used to mask the views of private areas. However, it is important to remember and take into account that the coverage provided by vegetation may vary due to seasonal changes, growth and pruning.

## 2.2.2 Electronic masking

There are several ways that electronic masking may be applied. The most typical takes place in or close to the camera but could also be within the recording device; subsequently allowing authorised users access to the masked part of the image. In either case the mask must always be correctly applied when required. Masks can be applied in various ways depending on the DPA and HRA limitations. Masked areas of the image are commonly referred to as 'Zones'. Examples include:

- a) Masked areas (usually rectangles) of solid, uniform colour so that no detail or movement in the scene covered by them can be seen through them.
- b) Masks that blur or pixellate the image so that they cover to allow movement, but no fine detail to be seen, such that targets can still be tracked or incidents detected in areas covered by the masks.
- c) Masks that engage only when the camera zooms in on an area, using the diminutive size of an object when far away to conceal detail.

With controllable cameras there is a need to dynamically adjust the size and position of the zone in accordance with pan, tilt and zoom. Maintaining the integrity of the privacy masking system is important, such that its configuration can be protected to prevent settings being altered, bypassed or overridden by unauthorised persons.

There are several factors affecting the accuracy of electronic masking. On PTZ cameras, mask size and shape needs to automatically adjust in order to cope with changes in perspective as the camera pans, tilts and zooms.

This issue becomes more acute with the degree that the camera is tilted, especially in cases where the areas to be masked fall well below the horizontal horizon of the camera. The suitability of the method of electronic privacy masking should be verified prior to the procurement and installation of equipment. Other factors that can affect the privacy masking are:

- a) The speed of mask drawing and updating due to the capabilities of the hardware being used to generate the masks. This can result in the mask lagging a short time behind changes in the image due to pan, tilt and zoom.
- b) The resolution and accuracy of feedback of pan, tilt and zoom position to the mask generator. This can result in the mask shifting towards one of the sides of the privacy zone, which in turn may result in part of the private area becoming visible. Making the masks slightly larger than the private area when setting them up usually compensates for this.
- c) The calibration and setup of generic privacy mask generators designed for use in conjunction with a range of cameras, lenses and pan and tilt units. Where the privacy masking system is not integral to the camera unit, some form of calibration is normally required in order that the privacy masking will work correctly.

Where the privacy masking is applied either in the camera module or within a dome camera assembly that is supplied complete with camera, there is usually no calibration required, as all necessary parameters are factory set.

Where systems require calibration, the accuracy of that calibration is normally critical to the subsequent accuracy of the privacy masking. Calibration should therefore be carried out carefully and in accordance with the instructions and, if necessary, training sought from the manufacturer of the equipment. The calibration should particularly take into account the non-linearity of the zoom lens (i.e. the amount that a fixed point in the centre of the scene moves in the image as the lens is zoomed in and out).



### 3 References

Convention for the Protection of Human Rights and Fundamental Freedoms as amended by Protocol No. 11,  
Council of Europe, Rome 4. XI. 1950

<http://conventions.coe.int/treaty/en/Treaties/Html/005.htm>

Home Office Communications Directive, Human Rights Act - An Introduction, HRG 110/2000

<http://www.opsi.gov.uk/acts/acts1998/80042--d.htm>

The Information Commissioner, CCTV Code of Practice, July 2000.

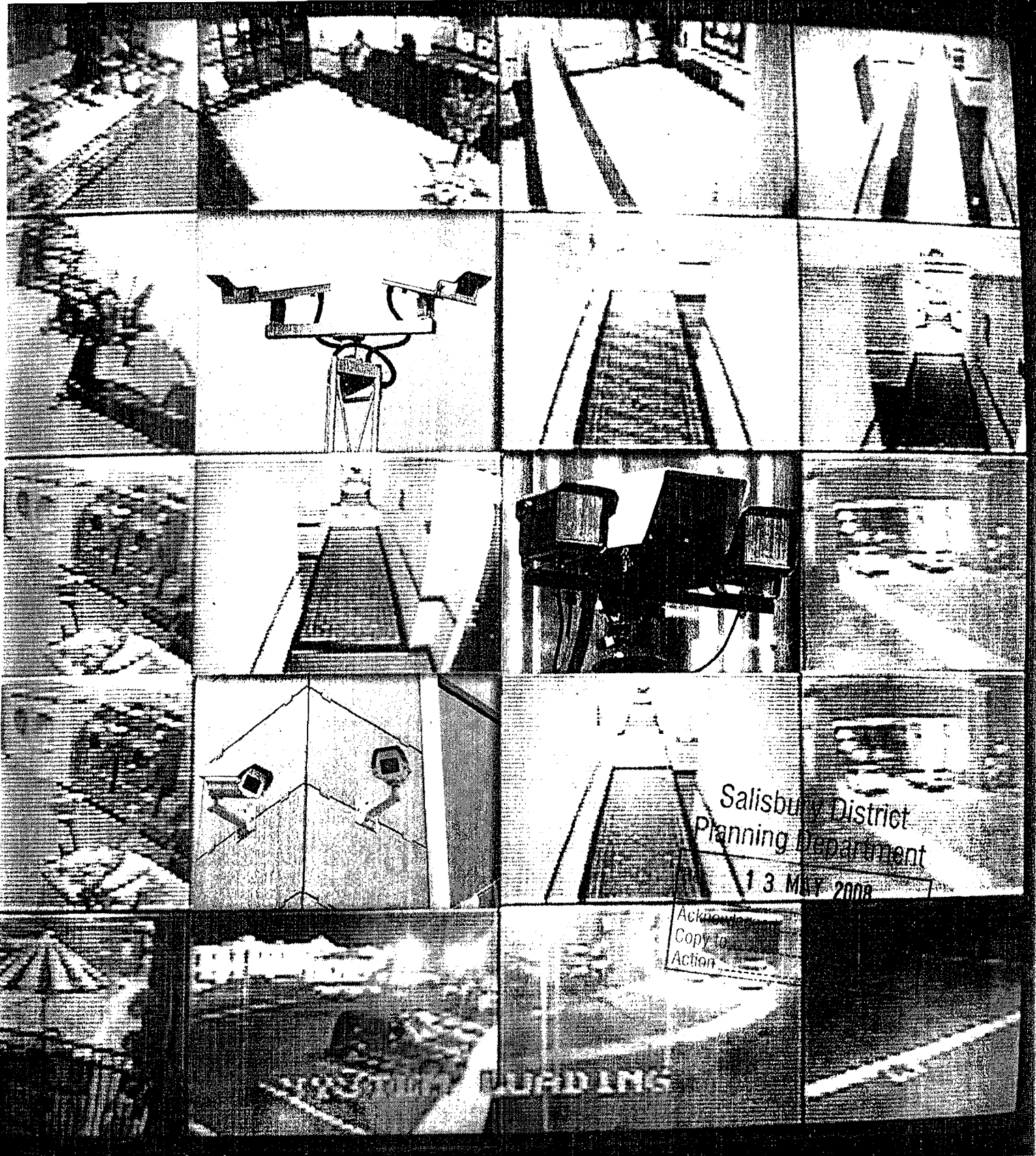
<http://www.ico.gov.uk> (under the 'for organisations' heading in the 'topic specific guides' section)

The Information Commissioner, The Data Protection Act 1998

<http://www.opsi.gov.uk/acts/acts1998/19980029.htm>

# CCTV code of practice

Revised edition 2008



Salisbury District  
Planning Department  
13 MAY 2008

Acknowledged  
Copy to  
Action

PLANNING DEPARTMENT

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# 1. Foreword



CCTV surveillance has become a common feature of our daily lives. We are caught on numerous CCTV cameras as we move around our towns and cities, visit shops and offices, and travel on the road and other parts of the public transport network. Whilst the use of CCTV continues to enjoy general public support, it necessarily involves intrusion into the lives of ordinary individuals as they go about their day to day business. Our research has shown that the public expect it to be used responsibly with effective safeguards in place. Maintaining public trust and confidence in its use is essential if its benefits are to be realised and its use is not to become increasingly viewed with suspicion as part of a surveillance society.

This code of practice replaces one first issued in 2000. Since then there have been advances in the way CCTV is used, the technology employed and the wider legal environment in which it operates. There have also been developments which may help achieve more privacy friendly ways of using CCTV. This revised code builds upon the previous guidance reflecting these changes and the lessons learnt of how it is used in practice. During the production of the code discussions have taken place with organisations that use CCTV and a public consultation exercise undertaken which generated many valuable comments.

However, the objective of this code remains the same: helping ensure that good practice standards are adopted by those who operate CCTV. If they follow its provisions this not only helps them remain within the law but fosters public confidence by demonstrating that they take their responsibilities seriously.

**Richard Thomas**  
**Information Commissioner**

## 2. About this code

This code provides good practice advice for those involved in operating CCTV and other devices which view or record images of individuals. It also covers other information derived from those images that relates to individuals (for example vehicle registration marks). This

code uses the terms 'CCTV' and 'images' throughout for ease of reference. Information held by organisations that is about individuals is covered by the Data Protection Act 1998 (DPA) and the guidance in this code will help operators comply with their legal obligations under the DPA.

The DPA not only creates obligations for organisations, it also gives individuals rights, such as the right to gain access to their details and to claim compensation when they suffer damage.

The basic legal requirement is to comply with the DPA itself. This code sets out the Information Commissioner's recommendations on how the legal requirements of the DPA can be met. Organisations may use alternative methods to meet these requirements, but if they do nothing then they risk breaking the law.

The recommendations in this code are all based on the legally enforceable data protection principles (Appendix 1) that lie at the heart of the DPA and they have been set out to follow the lifecycle and practical operation of CCTV. Each section of the code poses questions that must be positively addressed to help ensure that the good practice recommendations are being achieved.

Following the recommendations in this code will:

- help ensure that those capturing images of individuals comply with the DPA;
- mean that the images that are captured are usable; and
- reassure those whose images are being captured.

This code replaces the earlier code of practice issued by the Information Commissioner's Office (ICO) in 2000 (reprinted in 2001) and the supplementary guidance for small users. It takes account of the technical, operational and legal changes that have taken place since the original code was drawn up.

CCTV operators and practitioners have been involved in its production and we have taken into account their experiences of using the previous code of practice. It also builds upon research the ICO has commissioned into public attitudes to surveillance technologies and research on 'surveillance society' issues more generally.



### 3. What this code covers

This code covers the use of CCTV and other systems which capture images of identifiable individuals or information relating to individuals for any of the following purposes:

- Seeing what an individual is doing, for example monitoring them in a shop or walking down the street.
- Potentially taking some action in relation to an individual, for example handing the images over to the police to investigate a crime.
- Using the images of an individual in some way that will affect their privacy, for example passing images on to a TV company.



Most CCTV is directed at viewing and/or recording the activities of individuals. This means that most uses of CCTV by organisations or businesses will be covered by the Data Protection Act (DPA) and the provisions of this code, regardless of the size of the system. This replaces our previous guidance on when a CCTV system has to comply with the DPA.

The use of cameras for limited household purposes is exempt from the DPA. This applies where an individual uses CCTV to protect their home from burglary, even if the camera overlooks the street or other areas near their home. Images captured for recreational purposes, such as with a mobile phone, digital camera or camcorder, are also exempt.

**Example:** If you make a video of your child in a nativity play for your own family use, this is not covered by data protection law.

This code is primarily aimed at businesses and organisations who routinely capture images of individuals on their CCTV equipment. Some specific uses of image recording equipment are not intended to be covered in this code, although they may still be covered by the requirements of the DPA.

- The covert surveillance activities of the law enforcement community are not covered here because they are governed by the Regulation of Investigatory Powers Act (RIPA) 2000 and Regulation of Investigatory Powers (Scotland) Act (RIPSA) 2000.
- The use of conventional cameras (not CCTV) by the news media or for artistic purposes such as for film making are not covered by this code as they are subject to special treatment in the DPA. This code does apply to the passing on of CCTV images to the media.

Not all sections of the code will be fully relevant to all CCTV systems; this will depend upon the extent and use of the images. Although small-scale users (such as small retailers) are covered by the DPA, they are unlikely to have sophisticated systems, so many of this code's provisions are inappropriate. Appendix 2 provides special guidance, as an alternative to the full code, for very limited use of CCTV where privacy risks are small and resources are limited. If you are a small user, but you wish to use your CCTV system for any purpose which is not covered in the checklist, you should read the full code. Appendix 3 is for employers who may use CCTV to monitor their workers.

**Note:** The DPA applies to images captured by CCTV. This code does not cover the use of dummy or non-operational cameras.

## 4. Deciding whether to use CCTV or continue using CCTV

Using CCTV can be privacy intrusive, as it is capable of putting a lot of law-abiding people under surveillance and recording their movements as they go about their day to day activities. You should carefully consider whether to use it; the fact that it is possible, affordable or has public support should not be the primary motivating factor. You should take into account what benefits can be gained, whether better solutions exist, and what effect it may have on individuals.

Example: Cars in a car park are frequently damaged and broken in to at night. Consider whether improved lighting would reduce the problem more effectively than CCTV.

You should consider these matters objectively as part of an assessment of the scheme's impact on people's privacy. This does not have to be an extensive or time-consuming process in all cases. The extent of assessment necessary will depend on the size of the proposed scheme and the level of impact it is likely to have on people's privacy<sup>1</sup>.

You should use the results of the impact assessment to determine whether CCTV is justified in all the circumstances and if so how it should be operated in practice.

The things to cover in any impact assessment include:

- What organisation will be using the CCTV images? Who will take legal responsibility under the Data Protection Act (DPA)?<sup>2</sup>
- What is the organisation's purpose for using CCTV? What are the problems it is meant to address?
- What are the benefits to be gained from its use?
- Can CCTV technology realistically deliver these benefits? Can less privacy-intrusive solutions, such as improved lighting, achieve the same objectives?
- Do you need images of identifiable individuals, or could the scheme use other images not capable of identifying the individual?
- Will the particular equipment/system of work being considered deliver the desired benefits now and remain suitable in the future?
- What future demands may arise for wider use of images and how will you address these?
- What are the views of those who will be under surveillance?
- What could you do to minimise intrusion for those that may be monitored, particularly if specific concerns have been expressed?

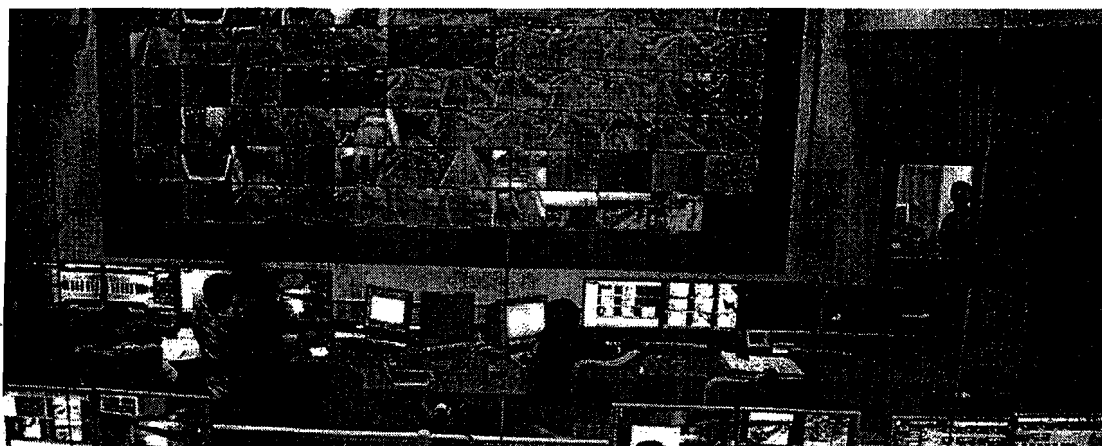
<sup>1</sup> If you are establishing a large system, or considering a use of CCTV which could give rise to significant privacy concerns, you may wish to consider using the ICO's Privacy impact assessment handbook.

<sup>2</sup> If CCTV is used by a business or organisation, then it is the body that is legally responsible under the DPA (the "data controller"), not an individual member of staff.

Where the system will be operated by or on behalf of a public authority, the authority will also need to consider wider human rights issues and in particular the implications of the European Convention on Human Rights, Article 8 (the right to respect for private and family life). This will include:

- Is the proposed system established on a proper legal basis and operated in accordance with the law?
- Is it necessary to address a pressing need, such as public safety, crime prevention or national security?
- Is it justified in the circumstances?
- Is it proportionate to the problem that it is designed to deal with?

If this is not the case then it would not be appropriate to use CCTV.





## 5. Ensuring effective administration

Establishing a clear basis for the handling of any personal information is essential and the handling of images relating to individuals is no different. It is important to establish who has responsibility for the control of the images, for example, deciding what is to be recorded, how the images should be used and to whom they may be disclosed. The body which makes these decisions is called the data controller and is legally responsible for compliance with the Data Protection Act (DPA).

Where more than one organisation is involved, each should know its responsibilities and obligations. If both make decisions about the purposes and operation of the scheme, then both are responsible under the DPA. This may be the case, for example, where the police have a 'live feed' from a local authority-owned camera.

- Who has responsibility for control of the images and making decisions on how these can be used? If more than one body is involved have responsibilities been agreed and does each know its responsibilities?
- Has the body (or have the bodies) responsible notified the Information Commissioner's Office (ICO) that they are the data controller? Does the notification cover the purposes for which the images are used, the disclosures that are made and other relevant details?<sup>3</sup>
- If someone outside your organisation provides you with any processing services, for example editing the images, is a written contract in place with clearly defined responsibilities? This should ensure that the images are only processed in accordance with your instructions. The contract should also include guarantees about security, such as storage and the use of properly trained staff.

You will also need clear procedures to determine how you use the system in practice.

- Have you identified clearly defined and specific purposes for the use of images, and have these been communicated to those who operate the system?
- Are there clearly documented procedures, based on this code, for how the images should be handled in practice? This could include guidance on disclosures and how to keep a record of these. Have these been given to appropriate people?
- Has responsibility for ensuring that procedures are followed been allocated to an appropriate named individual? They should ensure that standards are set, procedures are put in place to meet these standards and they should make sure the system complies with this code and with legal obligations such as an individual's right of access.
- Are proactive checks or audits carried out on a regular basis to ensure that procedures are being complied with? This can be done either by you as the system operator or a third party.

You should review regularly whether the use of CCTV continues to be justified. You will have to renew your notification yearly, so this would be an appropriate time to consider the ongoing use of CCTV.

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<sup>3</sup> Please be aware that notification to the Commissioner does not in itself ensure that the system is compliant. You will still need to comply with the data protection principles (see appendix 1). Not all organisations need to notify. Current notification requirements can be found at [www.ico.gov.uk/what\\_we\\_cover/data\\_protection/notification.aspx](http://www.ico.gov.uk/what_we_cover/data_protection/notification.aspx)

## 6. Selecting and siting the cameras

Any CCTV images must be adequate for the purpose for which you are collecting them. It is essential that you choose camera equipment and locations which achieve the purposes for which you are using CCTV. Both permanent and movable cameras should be sited and image capture restricted to ensure that they do not view areas that are not of interest and are not intended to be the subject of surveillance, such as individuals' private property. The cameras must be sited and the system must have the necessary technical specification to ensure that images are of the appropriate quality.

**Example:** Check that a fixed camera positioned in winter will not be obscured by the growth of spring and summer foliage.

- Have you carefully chosen the camera location to minimise viewing spaces that are not of relevance to the purposes for which you are using CCTV?
- Where CCTV has been installed to deal with a specific problem, have you considered setting the system up so it only records at the time when the problem usually occurs? Alternatively, have you considered other privacy-friendly ways of processing images? For example, some systems only record events that are likely to cause concern, such as movement into a defined area. This can also save on storage capacity.
- Will the cameras be sited to ensure that they can produce images of the right quality, taking into account their technical capabilities and the environment in which they are placed?
- Is the camera suitable for the location, bearing in mind the light levels and the size of the area to be viewed by each camera?
- Are the cameras sited so that they are secure and protected from vandalism?
- Will the system produce images of sufficient size, resolution and frames per second?

In areas where people have a heightened expectation of privacy, such as changing rooms or toilet areas, cameras should only be used in the most exceptional circumstances where it is necessary to deal with very serious concerns. In these cases, you should make extra effort to ensure that those under surveillance are aware<sup>4</sup>.

To judge the quality of images that will be necessary, you will need to take into account the purpose for which CCTV is used and the level of quality that will be necessary to achieve the purpose. The Home Office Scientific Development Branch<sup>5</sup> recommends identifying the needs of a CCTV system by using four categories:

- **Monitoring:** to watch the flow of traffic or the movement of people where you do not need to pick out individual figures.
- **Detecting:** to detect the presence of a person in the image, without needing to see their face.
- **Recognising:** to recognise somebody you know, or determine that somebody is not known to you.
- **Identifying:** to record high quality facial images which can be used in court to prove someone's identity beyond reasonable doubt.

Their guidance gives more detail on the quality of images needed for each of these purposes, and should be consulted when choosing equipment.

<sup>4</sup> The use of signs is included in the section on Responsibilities

<sup>5</sup> CCTV Operational Requirements Manual (v0.4 55/06), available from <http://scienceandresearch.homeoffice.gov.uk/hosdb>

## 7. Using the equipment

It is important that a CCTV system produces images that are of a suitable quality for the purpose for which the system was installed. If identification is necessary, then poor quality images which do not help to identify individuals may undermine the purpose for installing the system.

- Do the recorded pictures and prints as well as the live screens produce good clear pictures? This is important to ensure that there has not been an unacceptable loss of detail during the recording process.
- Have you considered the compression settings for recording material? In a digital system, a high level of compression will result in poorer picture quality on playback.
- Have you set up the recording medium in such a way that images cannot be inadvertently corrupted?
- Is there a regular check that the date and time stamp recorded on the images is accurate?
- If automatic facial recognition technology is being used, are the cameras placed so that facial images are clearly captured? Are the results of any match checked by people before any action is taken?
- Has a regular maintenance regime been set up to ensure that the system continues to produce high quality images?
- If a wireless transmission system is used, are sufficient safeguards in place to protect it from being intercepted?

CCTV must not be used to record conversations between members of the public as this is highly intrusive and unlikely to be justified. You should choose a system without this facility if possible. If your system comes equipped with a sound recording facility then you should turn this off or disable it in some other way.

There are limited circumstances in which audio recording may be justified, subject to sufficient safeguards. These could include:

- Audio based alert systems (such as those triggered by changes in noise patterns such as sudden shouting). Conversations must not be recorded, and operators should not listen in.
- Two-way audio feeds from 'help points' covered by CCTV cameras, where these are activated by the person requiring assistance.
- Conversations between staff and particular individuals where a reliable record is needed of what was said, such as in the charging area of a police custody suite<sup>6</sup>.
- Where recording is triggered due to a specific threat, e.g. a 'panic button' in a taxi cab.

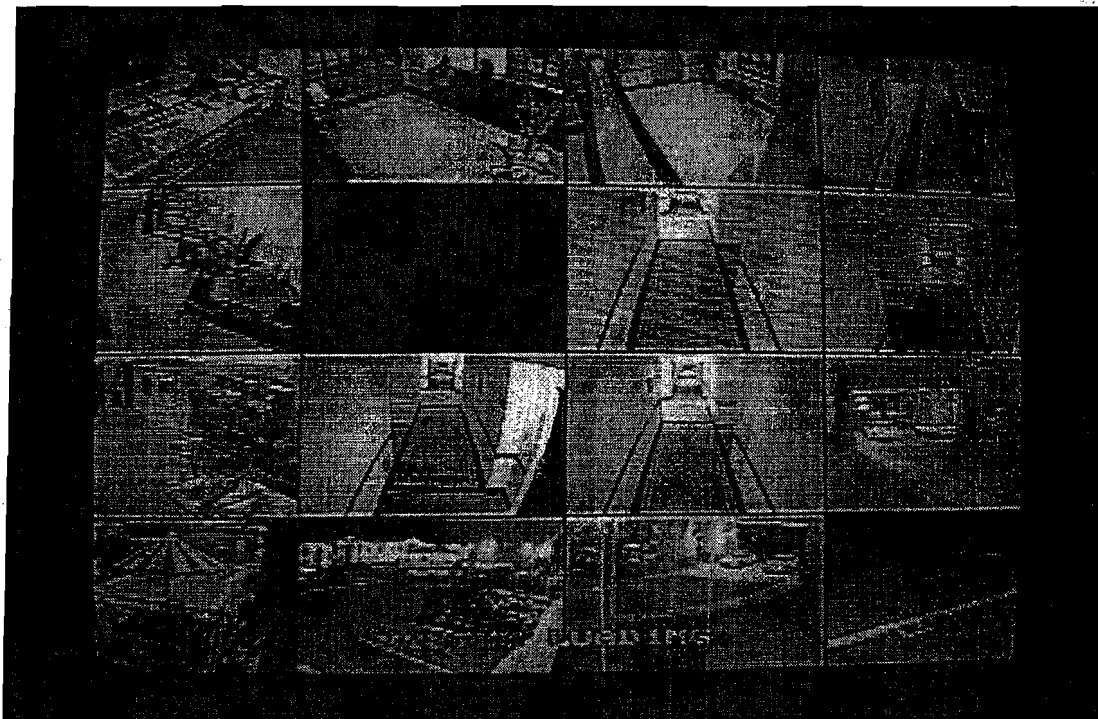
In the limited circumstances where audio recording is justified, signs must make it very clear that audio recording is being or may be carried out.

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<sup>6</sup> Police use of body-worn video devices (headcams) is covered by the Home Office guidelines, "Guidance for the police use of body-worn video devices", produced in consultation with the ICO. See the Home Office police publications page, <http://police.homeoffice.gov.uk/news-and-publications/>

The use of audio to broadcast messages to those under surveillance should be restricted to messages directly related to the purpose for which the system was established.

- If there is an audio monitoring or recording capability has this been disabled?
- If an audio based alert system is being used are measures in place to prevent conversations being monitored or recorded?
- If there are audio communications with help points, are these initiated by those requiring assistance?
- If a message broadcast facility is used, are the messages limited to those consistent with the original purpose for establishing the system?



## 8. Looking after the recorded material and using the images

### 8.1 Storing and viewing the images

Recorded material should be stored in a way that maintains the integrity of the image. This is to ensure that the rights of individuals recorded by the CCTV system are protected and that the material can be used as evidence in court. To do this you need to carefully choose the medium on which the images are stored, and then ensure that access is restricted. You may wish to keep a record of how the images are handled if they are likely to be used as evidence in court. Finally, once there is no reason to retain the recorded images, they should be deleted. Exactly when you decide to do this will depend on the purpose for using CCTV.

Many modern CCTV systems rely on digital recording technology and these new methods present their own problems. With video tapes it was very easy to remove a tape and give it to the law enforcement agencies such as the police for use as part of an investigation. It is important that your images can be used by appropriate law enforcement agencies if this is envisaged. If they cannot, this may undermine the purpose for undertaking CCTV surveillance.

- How easy is it to take copies of a recording off your system when asked for by a law enforcement agency? Can this be done without interrupting the operation of the system?
- Will they find your recorded images straightforward to use?
- What will you do when recorded material needs to be taken away for further examination?

Viewing of live images on monitors should usually be restricted to the operator unless the monitor displays a scene which is also in plain sight from the monitor location.

Example: Customers in a bank can see themselves on a monitor screen. This is acceptable as they cannot see anything on the screen which they could not see by looking around them. The only customers who can see the monitor are those who are also shown on it.

Example: Monitors in a hotel reception area show guests in the corridors and lifts, out of sight of the reception area. They should be turned so that they are only visible to staff, and members of the public should not be allowed access to the area where staff can view them.

Recorded images should also be viewed in a restricted area, such as a designated secure office. The monitoring or viewing of images from areas where an individual would have an expectation of privacy should be restricted to authorised persons.

- Are your monitors correctly sited taking into account the images that are displayed?
- Is your monitor viewing area appropriate and secure?
- Where necessary is access limited to authorised people?

## 8.2 Disclosure

Disclosure of images from the CCTV system must also be controlled and consistent with the purpose for which the system was established. For example, if the system is established to help prevent and detect crime it will be appropriate to disclose images to law enforcement agencies where a crime needs to be investigated, but it would not be appropriate to disclose images of identifiable individuals to the media for entertainment purposes or place them on the internet. Images can be released to the media for identification purposes; this should not generally be done by anyone other than a law enforcement agency.

**NOTE:** Even if a system was not established to prevent and detect crime, it would still be acceptable to disclose images to law enforcement agencies if failure to do so would be likely to prejudice the prevention and detection of crime.

Any other requests for images should be approached with care, as a wide disclosure of these may be unfair to the individuals concerned. In some limited circumstances it may be appropriate to release images to a third party, where their needs outweigh those of the individuals whose images are recorded.

**Example:** A member of the public requests CCTV footage of a car park which shows their car being damaged. They say they need it so that they or their insurance company can take legal action. You should consider whether their request is genuine and whether there is any risk to the safety of other people involved.

- Are arrangements in place to restrict disclosure of images in a way consistent with the purpose for establishing the system?
- Do those that may handle requests for disclosure have clear guidance on the circumstances in which it is appropriate to make a disclosure and when it is not?
- Do you record the date of the disclosure along with details of who the images have been provided to (the name of the person and the organisation they represent) and why they are required?

Judgements about disclosure should be made by the organisation operating the CCTV system. They have discretion to refuse any request for information unless there is an overriding legal obligation such as a court order or information access rights<sup>7</sup>. Once you have disclosed an image to another body, such as the police, then they become the data controller for their copy of that image. It is their responsibility to comply with the Data Protection Act (DPA) in relation to any further disclosures.

The method of disclosing images should be secure to ensure they are only seen by the intended recipient.

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<sup>7</sup> More information on subject access and freedom of information requests can be found in section 9.

## 8.3 Retention

The DPA does not prescribe any specific minimum or maximum retention periods which apply to all systems or footage. Rather, retention should reflect the organisation's own purposes for recording images.

You should not keep images for longer than strictly necessary to meet your own purposes for recording them. On occasion, you may need to retain images for a longer period, where a law enforcement body is investigating a crime, to give them opportunity to view the images as part of an active investigation.

**Example:** A system installed to prevent fraud being carried out at an ATM may need to retain images for several weeks, since a suspicious transaction may not come to light until the victim gets a bank statement.

**Example:** Images from a town centre system may need to be retained for enough time to allow crimes to come to light, for example a month. The exact period should be the shortest possible, based on your own experience.

**Example:** A small system in a pub may only need to retain images for a shorter period of time because incidents will come to light very quickly. However, if a crime has been reported to the police, you should retain the images until the police have time to collect them.

- Have you decided on the shortest period that you need to retain the images, based upon your own purpose for recording the images?
- Is your image retention policy documented and understood by those who operate the system?
- Are measures in place to ensure the permanent deletion of images through secure methods at the end of this period?
- Do you undertake systematic checks to ensure that the retention period is being complied with in practice?

## 9. Responsibilities

### 9.1 Letting people know

You must let people know that they are in an area where CCTV surveillance is being carried out.



The most effective way of doing this is by using prominently placed signs at the entrance to the CCTV zone and reinforcing this with further signs inside the area. This message can also be backed up with an audio announcement, where public announcements are already used, such as in a station.

Clear and prominent signs are particularly important where the cameras themselves are very discreet, or in locations where people might not expect to be under surveillance. As a general rule, signs should be more prominent and frequent where it would otherwise be less obvious to people that they are on CCTV.

In the exceptional circumstance that audio recording is being used, this should be stated explicitly and prominently.

Signs should:

- be clearly visible and readable;
- contain details of the organisation operating the system, the purpose for using CCTV and who to contact about the scheme (where these things are not obvious to those being monitored); and
- be an appropriate size depending on context, for example, whether they are viewed by pedestrians or car drivers.

Signs do not need to say who is operating the system if this is obvious. If CCTV is installed within a shop, for example, it will be obvious that the shop is responsible. All staff should know what to do or who to contact if a member of the public makes an enquiry about the CCTV system. Systems in public spaces and shopping centres should have signs giving the name and contact details of the company, organisation or authority responsible.

Example: "Images are being monitored and recorded for the purposes of crime prevention and public safety. This scheme is controlled by Green town Borough Council. For more information, call 01234 567890."

- Do you have signs in place informing people that CCTV is in operation?
- Do your signs convey the appropriate information?

### 9.2 Subject access requests

Individuals whose images are recorded have a right to view the images of themselves and, unless they agree otherwise, to be provided with a copy of the images. This must be provided within 40 calendar days of receiving a request. You may charge a fee of up to £10 (this is the



current statutory maximum set by Parliament). Those who request access must provide you with details which allow you to identify them as the subject of the images and also to locate the images on your system. You should consider:

- How will the staff involved in operating the CCTV system recognise a subject access request?
- Do you have internal procedures in place for handling subject access requests? This could include keeping a log of the requests received and how they were dealt with, in case you are challenged.

A clearly documented process will also help guide individuals through such requests. This should make it clear what an individual needs to supply. You should decide:

- What details will you need to find the images? Is it made clear whether an individual will need to supply a photograph of themselves or a description of what they were wearing at the time they believe they were caught on the system, to aid identification?
- Is it made clear whether details of the date, time and location are required?
- What fee will you charge for supplying the requested images (up to a maximum of £10) and how should it be paid? Make this clear to people making access requests.
- How will you provide an individual with copies of the images?

If images of third parties are also shown with the images of the person who has made the access request, you must consider whether you need to obscure the images of third parties. If providing these images would involve an unfair intrusion into the privacy of the third party, or cause unwarranted harm or distress, then they should be obscured. In many cases, images can be disclosed as there will not be such intrusion.

Example: A public space CCTV camera records people walking down the street and going about their ordinary business. Where nothing untoward has occurred, this can be released without editing out third party images.

Example: Images show the individual who has made the request with a group of friends, waving at a camera in the town centre. There is little expectation of privacy and the person making the request already knows their friends were there. It is likely to be fair to release the image to the requester without editing out the faces of their friends.

Example: Images show a waiting room in a doctor's surgery. Individuals have a high expectation of privacy and confidentiality. Images of third parties should be redacted (blurred or removed) before release.

Where you decide that third parties should not be identifiable, then you will need to make arrangements to disguise or blur the images in question. It may be necessary to contract this work out to another organisation. Where this occurs, you will need to have a written contract with the processor which specifies exactly how the information is to be used and provides you with explicit security guarantees.

## 9.3 Freedom of information

If you are a public authority then you may receive requests under the Freedom of Information Act 2000 (FOIA) or Freedom of Information (Scotland) Act 2002 (FOISA). Public authorities should have a member of staff who is responsible for responding to freedom of information requests, and understands the authority's responsibilities. They must respond within 20 working days from receipt of the request.

Section 40 of the FOIA and section 38 of the FOISA contain a two-part exemption relating to information about individuals. If you receive a request for CCTV footage, you should consider:

- Are the images those of the requester? If so then that information is exempt from the FOIA/FOISA. Instead this request should be treated as a data protection subject access request as explained above.
- Are the images of other people? These can be disclosed only if disclosing the information in question does not breach the data protection principles.

In practical terms, if individuals are capable of being identified from the relevant CCTV images, then it is personal information about the individual concerned. It is unlikely that this information can be disclosed in response to an FOI request as the requester could potentially use the images for any purpose and the individual concerned is unlikely to expect this. This may therefore be unfair processing in contravention of the Data Protection Act (DPA).

This is not an exhaustive guide to handling FOI requests<sup>8</sup>.

**Note:** Even where footage is exempt from FOIA/FOISA it may be lawful to provide it on a case-by-case basis without breaching the DPA, where the reason for the request is taken into account. See section 8 (using the images) for advice on requests for disclosure.

## 9.4 Other responsibilities

Staff operating the CCTV system also need to be aware of two further rights that individuals have under the DPA. They need to recognise a request from an individual to prevent processing likely to cause substantial and unwarranted damage or distress (s10 DPA) and one to prevent automated decision-taking in relation to the individual (s12 DPA). Experience has shown that the operators of CCTV systems are highly unlikely to receive such requests. If you do, guidance on these rights is available from the Information Commissioner's Office<sup>9</sup>. Any use of Automatic Facial Recognition technology should also involve human intervention before decisions are taken, and this would not be decision taking solely on an automated basis within the terms of the DPA.

If the CCTV system covers a public space, the organisation operating the CCTV system should be aware of the possible licensing requirements imposed by the Security Industry Authority.

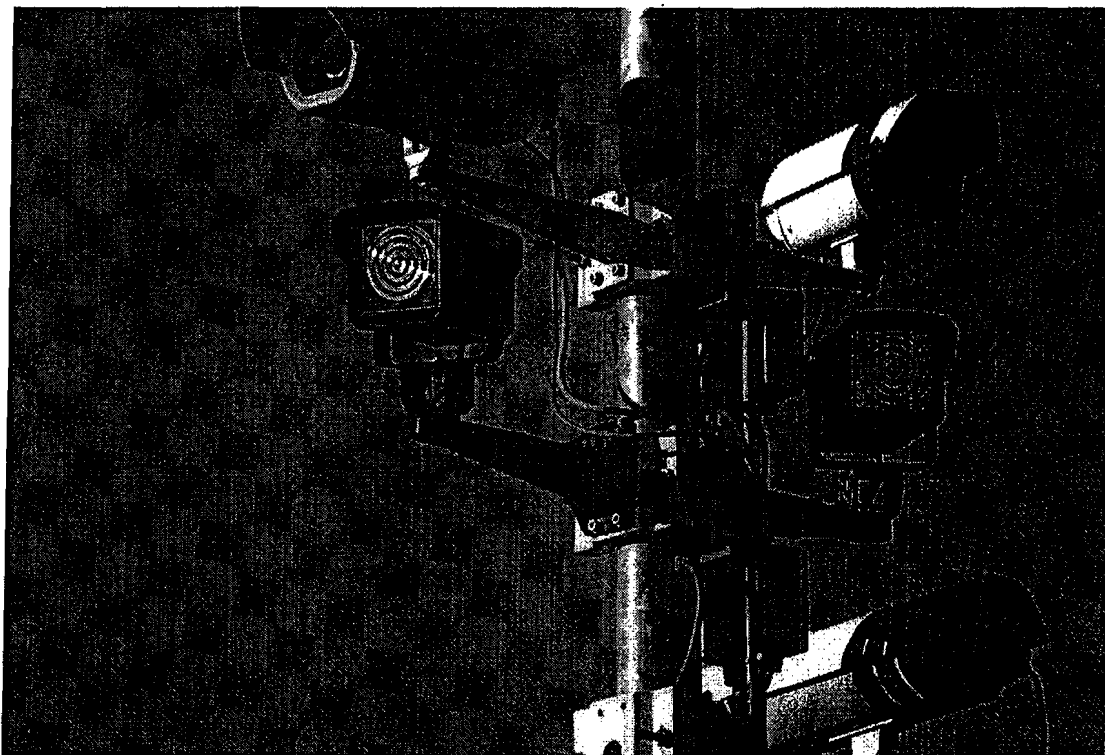
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<sup>8</sup> Further information about the FOIA can be found on ICO's website: [www.ico.gov.uk](http://www.ico.gov.uk) including specific guidance about section 40 (FOI Awareness Guidance No1).

<sup>9</sup> "How can I stop them processing my personal information?" and "Preventing decisions based on automated processing of personal information" can both be found on the ICO website: [www.ico.gov.uk](http://www.ico.gov.uk). You may also wish to consult our Legal Guidance.

A public space surveillance (CCTV) licence is required when operatives are supplied under a contract for services. Under the provisions of the Private Security Industry Act 2001, it is a criminal offence for staff to be contracted as public space surveillance CCTV operators in England, Wales and Scotland without an SIA licence<sup>10</sup>.

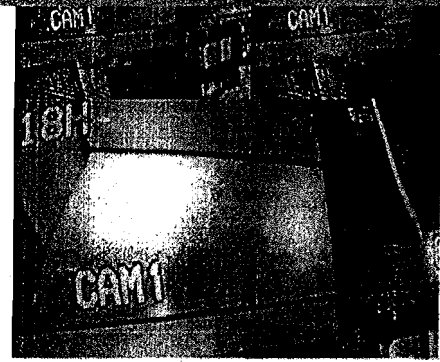
- Do the relevant staff know how to deal with any request to prevent processing or prevent automated decision making and where to seek advice?
- Have you satisfied any relevant licensing requirements?



<sup>10</sup> This requirement does not apply in Northern Ireland. For more information visit [www.the-sia.org.uk](http://www.the-sia.org.uk)

## 10. Staying in control

Once you have followed the guidance in this code and set up the CCTV system you need to ensure that it continues to comply with the Data Protection Act (DPA) and the code's requirements in practice. If requested you should:



- tell people how they can make a subject access request, who it should be sent to and what information needs to be supplied with their request;
- give them a copy of this code or details of the Information Commissioner's Office (ICO) website; and
- tell them how to complain about either the operation of the system or failure to comply with the requirements of this code.

Staff using the CCTV system or images should be trained to ensure they comply with this code. In particular, do they know:

- what the organisation's policies are for recording and retaining images?
- how to handle the images securely?
- what to do if they receive a request for images, for example, from the police?
- how to recognise a subject access request and what to do if they receive one?

All images must be protected by sufficient security to ensure they do not fall into the wrong hands. This should include technical, organisational and physical security. For example:

- Are sufficient safeguards in place to protect wireless transmission systems from interception?
- Is the ability to make copies of images restricted to appropriate staff?
- Where copies of images are disclosed, how are they safely delivered to the intended recipient?
- Are control rooms and rooms where images are stored secure?
- Are staff trained in security procedures and are there sanctions against staff who misuse CCTV images?
- Are staff aware that they could be committing a criminal offence if they misuse CCTV images?

Any documented procedures which you produce following on from this code should be reviewed regularly, either by a designated individual within the organisation or by a third party. This is to ensure the standards established during the setup of the system are maintained.

Similarly, there should be a periodic review (at least annually) of the system's effectiveness to ensure that it is still doing what it was intended to do. If it does not achieve its purpose, it should be stopped or modified.

- Is information available to help deal with queries about the operation of the system and how individuals may make access requests?
- Does the information include your commitment to the recommendations in this code and include details of the ICO if individuals have data protection compliance concerns?
- Is a system of regular compliance reviews in place, including compliance with the provisions of this code, continued operational effectiveness and whether the system continues to meet its purposes and remains justified?
- Are the results of the review recorded, and are its conclusions acted upon?

## Appendix 1

### The Data Protection Act 1998: data protection principles

1. Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless-
  - (a) at least one of the conditions in Schedule 2 is met, and
  - (b) in the case of sensitive personal data, at least one of the conditions in Schedule 3 is also met.
2. Personal data shall be obtained only for one or more specified and lawful purposes, and shall not be further processed in any manner incompatible with that purpose or those purposes.
3. Personal data shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed.
4. Personal data shall be accurate and, where necessary, kept up to date.
5. Personal data processed for any purpose or purposes shall not be kept for longer than is necessary for that purpose or those purposes.
6. Personal data shall be processed in accordance with the rights of data subjects under this Act.
7. Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.
8. Personal data shall not be transferred to a country or territory outside the European Economic Area unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data.

This is not a full explanation of the principles. For more general information, see our **Legal Guidance**<sup>1</sup>.

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<sup>1</sup> The ICO's "Data Protection Act 1998 Legal Guidance" is available on the ICO website: [www.ico.gov.uk](http://www.ico.gov.uk).

## Appendix 2

### Checklist for users of limited CCTV systems monitoring small retail and business premises

This CCTV system and the images produced by it are controlled by ..... who is responsible for how the system is used and for notifying the Information Commissioner about the CCTV system and its purpose (which is a legal requirement of the Data Protection Act 1998)<sup>1</sup>.

We (.....) have considered the need for using CCTV and have decided it is required for the prevention and detection of crime and for protecting the safety of customers. It will not be used for other purposes. We conduct an annual review of our use of CCTV.

	Checked (Date)	By	Date of next review
Notification has been submitted to the Information Commissioner and the next renewal date recorded.			
There is a named individual who is responsible for the operation of the system.			
A system has been chosen which produces clear images which the law enforcement bodies (usually the police) can use to investigate crime and these can easily be taken from the system when required.			
Cameras have been sited so that they provide clear images.			
Cameras have been positioned to avoid capturing the images of persons not visiting the premises.			
There are visible signs showing that CCTV is in operation. Where it is not obvious who is responsible for the system contact details are displayed on the sign(s).			
Images from this CCTV system are securely stored, where only a limited number of authorised persons may have access to them.			
The recorded images will only be retained long enough for any incident to come to light (e.g. for a theft to be noticed) and the incident to be investigated.			
Except for law enforcement bodies, images will not be provided to third parties.			
The organisation knows how to respond to individuals making requests for copies of their own images. If unsure the controller knows to seek advice from the Information Commissioner as soon as such a request is made.			
Regular checks are carried out to ensure that the system is working properly and produces high quality images.			

**Please keep this checklist in a safe place until the date of the next review.**

<sup>1</sup> Not all small businesses need to notify. Current notification requirements can be found at [www.ico.gov.uk/what\\_we\\_cover/data\\_protection/notification.aspx](http://www.ico.gov.uk/what_we_cover/data_protection/notification.aspx)

## Appendix 3

### Monitoring your workforce

When you install CCTV in a workplace, such as a shop, it is likely to capture pictures of workers, even if they are not the main subject of surveillance. If the purpose of the CCTV is solely to prevent and detect crime, then you should not use it for monitoring the amount of work done or compliance with company procedures.

- Have the cameras been installed so they are not directed specifically to capture images of workers?
- Are the recorded images viewed only when there is suspected criminal activity, and not just for routine monitoring of workers? Cameras installed for preventing and detecting crime should not be used for non-criminal matters.
- Are images of workers used only if you see something you cannot be expected to ignore, such as criminal activity, gross misconduct, or behaviour which puts others at risk?
- If these images are used in disciplinary proceedings, is the footage retained so that the worker can see it and respond? A still image is unlikely to be enough.

In some cases, it may be appropriate to install CCTV specifically for workforce monitoring. You should go through the decision making process in section 4 of this code and consider whether it is justified. In particular, consider whether better training or greater supervision would be a more appropriate solution.

**Example:** You suspect that your workers are stealing goods from the store room. It would be appropriate to install CCTV in this room, as it will not involve continuous or intrusive monitoring and is proportionate to the problem.

**Example:** You suspect that your workers are making mobile phone calls during working hours, against company policy, and you consider installing CCTV cameras on their desks to monitor them throughout the day. This would be intrusive and disproportionate. Continuous monitoring should only be used in very exceptional circumstances, for example where hazardous substances are used and failure to follow procedures would pose a serious risk to life.

- Is CCTV limited to areas which workers would not expect to be private? CCTV should not be used in toilet areas or private offices.
- Are workers made aware that the CCTV is for staff monitoring and how it will be used? How are visitors informed that CCTV is in operation?
- If CCTV is used to enforce internal policies, are workers fully aware of these policies and have they had sufficient training?
- Do you have procedures to deal appropriately with subject access requests from workers?

Workers should normally be aware that they are being monitored, but in exceptional circumstances, covert monitoring may be used as part of a specific investigation. Covert

monitoring is where video or audio recording equipment is used, and those being monitored are unaware that this is taking place. Before approving covert monitoring, you should ask yourself:

- Is this an exceptional circumstance, and is there is reason to suspect criminal activity or equivalent malpractice?
- Will the cameras only be used for a specific investigation, and will they be removed once the investigation is complete?
- Would it prejudice the investigation to tell workers that cameras are being used?
- Have you taken into account the intrusion on innocent workers?
- Has the decision been taken by senior management?

Cameras and listening devices should not be installed in private areas such as toilets and private offices, except in the most exceptional circumstances where serious crime is suspected. This should only happen where there is an intention to involve the police, not where it is a purely internal disciplinary matter.

In some cases, covert cameras installed for one investigation may turn up evidence of other criminal behaviour or disciplinary offences. You should only make use of this where the offence is serious, for example, gross misconduct or misconduct putting others at risk. It would be unfair to use evidence obtained covertly for minor disciplinary matters.

In some cases, covert monitoring may be covered by the Regulation of Investigatory Powers Act 2000 or the Regulation of Investigatory Powers (Scotland) Act 2000 (RIPA / RIPSAs). You may wish to seek advice<sup>1</sup>.

More advice on monitoring workers can be found in our **Employment practices code**<sup>2</sup>.

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<sup>1</sup> The Home Office guidance on RIPA can be found at <http://security.homeoffice.gov.uk/ripa>

<sup>2</sup> The Employment practices code and other related guidance can be found on the ICO website: [www.ico.gov.uk](http://www.ico.gov.uk)