

AGENDA

Meeting: Southern Area Planning Committee

Place: Online

Date: Thursday 4 February 2021

Time: 3.00 pm

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

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

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

Membership:

Cllr Fred Westmoreland (Chairman)
Cllr Richard Britton (Vice-Chairman)
Cllr Brian Dalton
Cllr Christopher Devine
Cllr Jose Green
Cllr Mike Hewitt

Cllr Leo Randall
Cllr Sven Hocking
Cllr George Jeans
Cllr Ian McLennan
Cllr John Smale

Substitutes:

Cllr Trevor Carbin
Cllr Ernie Clark
Cllr Tony Deane
Cllr John Walsh

Cllr Bridget Wayman
Cllr Graham Wright
Cllr Robert Yuill

To view the online meeting broadcast use this [link](#)

Note: Registered speakers must join using the link provided in advance, by the clerk.

Recording and Broadcasting Information

Wiltshire Council may record this meeting for live and/or subsequent broadcast on the Council's website at <http://www.wiltshire.public-i.tv>. At the start of the meeting, the Chairman will confirm if all or part of the meeting is being recorded. The images and sound recordings may also be used for training purposes within the Council.

By entering the meeting room you are consenting to being recorded and to the use of those images and recordings for broadcasting and/or training purposes.

The meeting may also be recorded by the press or members of the public.

Any person or organisation choosing to film, record or broadcast any meeting of the Council, its Cabinet or committees is responsible for any claims or other liability resulting from them so doing and by choosing to film, record or broadcast proceedings they accept that they are required to indemnify the Council, its members and officers in relation to any such claims or liabilities.

Details of the Council's Guidance on the Recording and Webcasting of Meetings is available on request. Our privacy policy can be found [here](#).

Public Participation

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

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

The full constitution can be found at [this link](#).

For assistance on these and other matters please contact the officer named above for details

AGENDA

Part I

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

1 **Apologies**

To receive any apologies or substitutions for the meeting.

2 **Minutes of the Previous Meeting** (*Pages 7 - 16*)

To approve and sign as a correct record the minutes of the meeting held online on 12 November 2020.

3 **Declarations of Interest**

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

4 **Chairman's Announcements**

To receive any announcements through the Chair.

5 **Public Participation**

The Council welcomes contributions from members of the public. During the ongoing Covid-19 situation the Council is operating revised procedures and the public are able to participate in meetings online after registering with the officer named on this agenda, and in accordance with the deadlines below.

[Guidance on how to participate in this meeting online](#)

View the online meeting here: [Link](#)

Statements

Members of the public who wish to submit a statement in relation to an item on this agenda should submit this in writing to the officer named on this agenda no later than **5pm on Tuesday 2 February 2021**.

Submitted statements should:

State whom the statement is from (including if representing another person or organisation);

State clearly whether the statement is in objection to or support of the application;

Be readable aloud in approximately three minutes (for members of the public and statutory consultees) and in four minutes (for parish council representatives – 1 per parish council).

Up to three objectors and three supporters are normally allowed for each item on the agenda (with slots being allocated on an order of registration basis), plus

statutory consultees and parish councils.

Those submitting statements would be expected to join the online meeting to read the statement themselves, or to provide a representative to read the statement on their behalf. A separate joining link will be provided to those registered.

Questions

To receive any questions from members of the public or members of the Council received in accordance with the constitution which excludes, in particular, questions on non-determined planning applications.

Those wishing to ask questions are required to give notice of any such questions electronically to the officer named on the front of this agenda no later than 5pm on Thursday 28 January 2021, in order to be guaranteed of a written response.

In order to receive a verbal response questions must be submitted no later than 5pm on Monday 1 February 2021.

Please contact the officer named on the front of this agenda for further advice. Questions may be asked without notice if the Chairman decides that the matter is urgent. Details of any questions received will be circulated to members prior to the meeting and made available at the meeting and on the Council's website. Questions and answers will normally be taken as read at the meeting.

6 Planning Appeals and Updates (Pages 17 - 18)

To receive details of completed and pending appeals and other updates as appropriate for the period of 30/10/2020 to 22/01/2021.

7 Planning Applications

To consider and determine planning applications in the attached schedule.

7a 20/06105/FUL - 107 Bouverie Avenue, Salisbury SP2 8EA (Pages 19 - 46)

Erection of a 3-bed bungalow to the rear of 107 Bouverie Avenue South, associated access and driveway, and hard and soft landscaping.

7b 19/11849/FUL - 2 Pinckneys Way, Durrington, SP4 8BU (Pages 47 - 70)

Erection of three pairs of semi-detached houses with associated access, parking and landscaping following the demolition of existing property.

7c 20/07918/FUL - Cobbins, Laverstock Park, Laverstock, SP1 1QJ (Pages 71 - 82)

Demolition of existing car port and garage and the erection of a double storey side extension and erection of double garage with storage area above.

Replacement of windows and doors and associated improvement works.

7d **20/05658/106 - Coldharbour Barn, High Street, Pitton SP5 1DQ**
(Pages 83 - 98)

Discharge of S106 Agreement dated 15th March 2005 under S/2004/1131 in respect of public meeting area.

8 **Urgent Items**

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

Part II

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

This page is intentionally left blank

Southern Area Planning Committee

MINUTES OF THE SOUTHERN AREA PLANNING COMMITTEE MEETING HELD ON 12 NOVEMBER 2020 AT ALAMEIN SUITE, CITY HALL, MALTHOUSE LANE, SALISBURY, SP2 7TU.

Present:

Cllr Fred Westmoreland (Chairman), Cllr Richard Britton (Vice-Chairman), Cllr Brian Dalton, Cllr Christopher Devine, Cllr Jose Green, Cllr Mike Hewitt, Cllr Leo Randall, Cllr Sven Hocking, Cllr George Jeans, Cllr Ian McLennan and Cllr John Smale

Also Present:

84 **Apologies**

There were none.

85 **Minutes of the Previous Meeting**

The minutes of the meeting held online on 29 September 2020 were presented.

Resolved:

To approve as a correct record and sign the minutes.

86 **Declarations of Interest**

There were none.

87 **Chairman's Announcements**

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

88 **Public Participation**

The committee noted the rules on public participation.

89 **Planning Appeals and Updates**

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

Resolved:

To note the Appeals and Updates report for the period of 18/09/20 – 30/10/20.

90

Planning Applications

91

19/11985/FUL - Land at Bonham Farm, Bonham Lane, Stourton, BA12 6PX

Public Participation

Hilary Younger spoke in objection to the application

Erik Ruane spoke in objection to the application

Nick Hoare (Applicant) spoke in Support of the application

Sara Hoare (Applicant) spoke in Support of the application

Diccon Carpendale (Agent) spoke in Support of the application

Pat Booth Vice-Chairman Stourton with Gasper Parish Council spoke in Support of the application

The Senior Planning Officer, Becky Jones presented the application for 4 no affordable dwellings comprising 2 x two bed house and 2 x three bed houses with associated access and parking area. The application was recommended for refusal.

The Officer noted that the site was currently marked out for agricultural pasture with an area of woodland to the west. The proposed access was along a track which led to 12 parking spaces positioned at the front of the dwellings with gardens to the rear. A public footpath also ran through the centre of the track.

There were farm buildings opposite the site which consisted of a mixture of some which were historic and of period and some, more modern. Nearby properties, Bonham Farmhouse was grade II and Bonham Farm Cottage was Grade II* listed.

A series of slides showing the elevations and floorplans were explained.

Proposals include some new vehicular passing places along Bonham Lane.

A separate affordable housing scheme with 4 dwellings was owned by the applicant. This scheme called Brook Cottages, had been given permission in 2013.

The main issues which had been considered to be material in the determination of this application were listed as:

1. Principle of development and whether the development met the policy criteria for an exceptions site
2. Affordable housing provision and Wiltshire Council's allocations policy
3. Impact on the settings of heritage assets and the character and appearance of the area
4. Landscape setting and the character of the AONB
5. Impact on residential amenity

6. Impact on the local road network, highway safety and rights of way
7. Ecology, archaeology and non mains drainage
8. Site at Brook Cottages in Gasper and application 13/00636/FUL

There had been 3 letters of objection and 14 in support. The Parish Council was in support of the application.

Objections from statutory consultees in Housing, Conservation and Highways, were detailed in the report.

The site was felt to be unsustainably situated and did not meet the requirements of CP44, in that it was not accessible to local services and employment.

Nomination rights retained by landlord and not a registered provider. In Brooks cottages site the PC was tied to the S106 and the landlord was still required to cooperate with the PC when necessary in the fulfilment of obligations in the allocations policy. Also, the Council would have little or no way of controlling rent or ensuring continuity going into the future.

Landscape sustainability reason – there would be significant highways and visual implications of the site on the AONB.

The second refusal reason relates to the impact on the significance of the grade II and Grade II* listed buildings, the Conservation Officer and Historic England felt that the development would harm the historically remote rural settings of the farmhouse and the former Chapple of St Benedict.

Attention was drawn to the appendices attached to the report.

Members of the Committee had the opportunity to ask technical questions of the officer. In response to queries, it was clarified that if land owner retained the rights he would control who was allocated a property and what the rents would be, however if approved then this could be managed with a S106 agreement, as there was no involvement of the PC for this scheme.

The councils Exception Site Policy also applied to non-build to rent sites and that build to rent was included as a category in the NPPF.

The concerns raised by the AONB around the roof lights could be eased by the addition of a condition.

The trackway was in the ownership of the applicant and as it was also a footpath it could not be obstructed.

The NPPF had updated the definition of affordable housing, however the councils Local Plan was in place and it was officers interpretation of build to rent was not suitable for rural exception sites and it was meant to be a class by itself.

The Conservation Officer was asked to clarify the historic importance of the site.

Jocelyn Sage, Senior Conservation Officer outlined the importance of the historic interest of the site. Bonham Manor was II* and was C14 in origin with some late alterations. It was where Lords of Stourton lived from the C14, and the chapel was where they went to worship also a chapel that roman Catholics could come and worship. The Isolated character of the building was a key reason why the chapel remained a place of worship for such a long time, because it was hidden away.

There was a common agreement between the council's conservation team, the applicant, the heritage consultant and Historic England that the development site is within the setting of these assets, we don't agree on how impactful the development would be on the setting.

There was a requirement under section 66 of the Planning and Listed Building and Conservations areas Act, requires the local authority to have special regard to the desirability to preserving the building or its setting.

The Officer gave examples of case histories of third party judicia reviews of local authority decisions.

Members of the public, as detailed above, then had the opportunity to speak on the application.

Some of the main points included comments around the sustainability of the area and whether it was suitable for an increase in dwellings and traffic.

It was stated that Bonham Manor was the only property not owned by applicant and was cited in the publication, Important Buildings in Wiltshire and that the isolation and tranquillity was an essential part of how that came to be listed.

Whether the proposals were contrary to Wiltshire and national planning policy documents.

The existing four affordable housing scheme's rent was charged at 71% of market rent value and the applicant stated that he would sign a S106 agreement guaranteeing perpetuity.

The Parish Council was in support of the proposed development.

Local Member Cllr George Jeans then spoke in support of the application, noting that he would seek Officer assistance in stating appropriate reasons based on Core Policy references should the application be approved.

The application was called in based on localism, as it was a welcome development by most locally including Stourton and Gasper Parish Council.

A similar 4 dwelling scheme had been built at Gasper a few years previously which had been approved by the Southern Area Planning Committee, against

officers' recommendations. That development had since proved to be successful.

He urged the Committee to look beyond the report of officers for these proposed dwellings. There was employment in the area as could be noted based on the existing residence of the 4 developed dwellings, which he listed as all working within the nearby community.

A cottage nearby was for sale for a £1 million, many do not now commute hence one reason for the premiums commanded. Southwest Wiltshire had the highest proportion of persons above 65 in Wiltshire, this imbalance needed addressing.

Key workers carers etc were required to live in the area. The existing affordable housing dwellings rent was less than that charged for the two recently Wiltshire Council developed bungalows in Mere.

The Highway standard was little different to the application previously granted and built out. The National Trust at Stourhead had 400, 000 visitors a year, a percentage of which used these roads; therefore the proposed 4 houses would add infinitesimally to this application.

He compared the proposal to other developments granted permission in the Mere Area, which included The Old Ship Hotel which was also a Grade II* listed which he stated had changed its setting character.

Modern farm buildings and machinery and the well-used nearby road previously mentioned, had caused the setting and ambience to bear significantly less resemblance to what was there when Catholicism was not welcomed.

It would likely be possible for a large agricultural building to be constructed on the footprint of this site, which in my opinion would have more impact on the setting.

He felt that the localism requested by Stourton and Gasper Parish Council and others in support should be supported and the application be approved by the Committee.

Cllr Jeans then moved a motion of Approval against Officer recommendation, stating the reasons and this was seconded by Cllr Devine.

The provision of much needed affordable housing in this village outweighs any modest and less than substantial harm to the adjacent heritage assets, the landscape of the AONB, or the highway system. The site is sustainable in a rural context, given that the village is dispersed in character, and it would be difficult to provide a site closer the Stourhead centre, particularly given the volume of visitors that settlement received normally, and its protected status. The Gasper affordable housing scheme approved some years ago appears to be working well. Consequently, the proposal would accord with the overarching sustainability, heritage, landscape, and rural affordable housing goals and aims

of national and local planning policies, including local policies CP44, CP48, CP51, CP57, CP58, and CP61. The proposal should be approved, subject to a S106 being entered into similar to that previously approved at the Gasper site, to restrict the housing to local affordable housing, in accordance with the restrictions required in the NPPF and NPPG for Build to Rent, and tied to the Stourton Estate Allocations policy framework.

The Committee was invited to discuss the application, the main points included the need for more affordable housing and options for controlling the rent amounts in lieu of the involvement of the PC and whether a restriction on the sale of the properties at a later date could be applied.

The PC housing survey which had shown a need for local housing and the PC support for the application was noted.

The objections from the statutory consultees was raised as a concern by some members, whilst others felt that the concerns could be managed by conditions.

The unsustainability of the rural area was also debated with arguments on both sides. It was proposed that having broadband provision would qualify a location as being sustainable.

The historic importance of the historic Chapel and the unique setting were given as reason for not supporting the application by some members.

Following debate the Committee confirmed they had heard and seen all relevant visual materials, and voted on the motion of approval against officer recommendation, with the reasons stated as: there was a desperate need of affordable housing in the area, the area was not considered as unsustainable, there would be little or no impact on heritage and this would be outweighed by the public benefits of providing affordable housing and that there would be little additional impact on highways. In addition a S106 agreement would need to be agreed and the standard conditions applied by the Officer to cover the standard 3 year development window, ecology net gain, drainage, landscaping, lighting, parking and access, the new passing bays, archaeology and renewable energy.

It was:

Resolved:

that application 19/11985/FUL be:

- i) delegated back to officers and**
- ii) Approved subject to the applicant entering into a Section 106 Agreement to restrict the development to four Build to Rent dwellings for local affordable rent in perpetuity and in accordance with the restrictions required in the NPPF and NPPG for Build to Rent, and tied to the Stourton Estate Allocations policy framework.**

And 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.

REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans listed in schedule

Proposed Site and Location Plans ref 14082 – 2 dated Oct 2019

Proposed Plans, Elevations and Sections ref 14082 – 4 dated Oct 2019

Suggested Improvements to Bonham Lane plan (2 No new passing places) received 3/11/20

Proposed Site Plan Layout and Typical Section AA ref 14082 – 3 dated Oct 2019

Proposed Drainage Scheme ref 2019-101-01 dated Dec 2019

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

3. Notwithstanding the details shown on the submitted plans and forms, no development shall commence above slab level on site until details of the materials for the walls and roofs of the development and the surfaces for the parking spaces, turning area and new access have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details. Any timber cladding shall be horizontal boarding.

REASON: The proposed application contains insufficient information and the matter raised above require to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, in the interests of visual amenity and the character and appearance of the area.

4. A scheme for soft landscaping for the development shall be submitted to and approved in writing by the Local Planning Authority before the car parking layout is completed. All soft landscaping comprised in the details to be approved shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

5. No development shall commence within the site area until:

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

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

Informative: In order to fulfil the archaeology condition, the LPA would wish to see the preparation of a Written Scheme of Investigation (WSI), setting out the terms of an archaeological excavation, exploring the house platform, the associated earthworks and the features identified to the south east by the evaluation. This WSI and subsequent excavation to be carried out by qualified archaeologists with the costs to be met by the applicant.

6. Before their installation, a scheme for the two new passing bays on Bonham Lane shall be submitted to and approved in writing by the Local Planning Authority.

No part of the development hereby permitted shall be occupied until:

1. the access, turning area and parking spaces for the dwellings
2. the two new passing bays in Bonham Lane shown on Plan titled Suggested Improvements to Bonham Lane plan (2 No new passing places) received 3/11/20

have been suitably consolidated, surfaced (not loose stone or gravel) and completed in accordance with the details shown on the approved plans and details to be agreed. The areas shall be maintained for those purposes at all times thereafter.

REASON: In the interests of highway safety.

7. The development hereby permitted shall not be occupied until the approved sewage and surface water disposal drainage works and package treatment plant proposed have been completed in accordance with the submitted and approved details on plan ref Proposed Drainage Scheme ref 2019-101-01 dated Dec 2019

REASON: To ensure that the development is provided with a satisfactory means of drainage.

8. The development hereby permitted shall not be occupied until
 - i) a scheme for ecological net gain (such as bat and bird boxes) and

ii) a scheme for renewable energy provision

have been completed in accordance with details to be submitted to and approved in writing before the development is occupied. The measures to be agreed shall remain in situ for the lifetime of the development.

REASON: To ensure that the development results in an ecological net gain for the site and provides renewable energy.

9. No external light fixture or fitting shall be installed on any of the buildings or within the application site until a detailed lighting plan has been submitted to and approved in writing by the LPA. Any lighting shall be designed to ensure that non-polluting lighting is used and to a minimum to ensure that the AONB International Dark Sky Reserve status is maintained. The lighting plan shall incorporate the recommendations in:

- Fact Sheets & Good Practice Notes Number 6 Good Practice Note Colour and Integrating Developments into the Landscape, prepared by Cranborne Chase and West Wiltshire Downs AONB, January 2013.
- Position Statement Number 1 Light Pollution, prepared by Cranborne Chase and West Wiltshire Downs AONB, November 2007.
- Fact Sheets & Good Practice Notes Number 7, prepared by Cranborne Chase and West Wiltshire Downs AONB, January 2016.

and any lighting shall be angled downwards and away from hedges and trees. The development shall be implemented in accordance with the agreed details in the lighting plan.

Reason: A detailed lighting plan has not been submitted and special consideration should be given to maintaining the AONB International Dark Sky Reserve status. These measures are suggested to ensure that the proposed development contributes to, rather than detracts from the conservation and enhancement of the scenic beauty and character of the Cranbourne Chase AONB. Furthermore, the introduction of artificial light is likely to mean that wildlife species are disturbed and/or discouraged from using the area. Such disturbance may constitute an offence under relevant wildlife legislation.

10. Construction hours shall be limited to 0800 to 1800 hrs Monday to Friday, 0800 to 1300 hrs Saturday and no working on Sundays or Bank Holidays.

Reason: To ensure that appropriate levels of amenity for nearby residents are achievable.

92 **Urgent Items**

There were no urgent items

(Duration of meeting: 3.00 - 4.39 pm)

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

Press enquiries to Communications, direct line (01225) 713114/713115

Wiltshire Council
Southern Area Planning Committee
4th February 2021

Planning Appeals Received between 30/10/2020 and 22/01/2021

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Appeal Start Date	Overturn at Cttee
20/01159/FUL	Dairy Farm Butterfurlong Road East Grimstead SP5 3RT	GRIMSTEAD	Redevelopment of redundant farm building to create a single new detached house and associated works (resubmission of 19/01449/FUL)	DEL	Written Representations	Refuse	05/01/2021	No
20/04735/FUL	Agricultural Building at Down Farmhouse Cow Drove, Chilmark SP3 5TA	CHILMARK	Operational works in association with the upcoming change of use of part of the agricultural building to a flexible commercial use under Schedule 2, Part 3, Class R of the General Permitted Development Order.	DEL	Written Representations	Refuse	15/12/2020	No
20/04836/FUL	Land to the rear of 14 Norfolk Road Salisbury, SP2 8HG	SALISBURY CITY	Single 2-bedroom dwelling	DEL	Written Representations	Refuse	07/12/2020	No
20/05322/VAR	18 Burford Road Harnham, Salisbury Wiltshire, SP2 8AN	SALISBURY CITY	Variation of condition 5 of planning permission 18/00376/FUL (Condition 4 of Variation of condition approval 18/10898/VAR) to allow the hours of play in garden nursery from 09:00 to 18:00 Monday to Friday	SAPC	Written Representations	Approve with Conditions	05/01/2021	Yes
20/05729/FUL	26 Moberly Road Salisbury, SP1 3BY	SALISBURY CITY	Ground floor side and rear extension and first floor rear extension (resubmission of 19/04660/FUL)	DEL	House Holder Appeal	Refuse	18/12/2020	No

Planning Appeals Decided between 30/10/2020 and 22/01/2021

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Appeal Decision	Decision Date	Costs Awarded?
20/01488/FUL	Heritage Automotive, Units 6 and 7 South Newton Industrial Estate Warminster Road South Newton SP2 0QW	SOUTH NEWTON	Retrospective planning consent for use of existing land as stock car storage, and construction of helipad.	DEL	Written Reps	Refuse	Dismissed	04/01/2021	
20/01489/FUL	West Winterslow Workshops, Back Drove West Winterslow Wiltshire, SP5 1RY	WINTERSLOW	Proposed demolition of existing workshops and the erection of three dwellings (1 x 3 bed and 2 x 4 bed) (Use Class C3), car parking, landscaping, access and associated works.	DEL	Written Reps	Refuse	Dismissed	20/11/2020	
20/01995/FUL	45-49 Catherine Street Salisbury, SP1 2DH	SALISBURY CITY	New signage board above the shop frontage	DEL	Written Reps	Refuse	Dismissed	01/12/2020	
20/02631/LBC	45-49 Catherine Street Salisbury, SP1 2DH	SALISBURY CITY	New signage board above the shop frontage	DEL	Written Reps	Refuse	Dismissed	01/12/2020	
20/04308/FUL	Walnut House A338, Cholderton SP4 0DH	CHOLDERTON	Demolition of a modern dilapidated 120 sqm swimming pool house that is ancillary to Walnut House and replacement with a single storey 120 sqm granny annex ancillary to Walnut House and re-use of the existing separate 7sqm pump-room and changing room to a recycling store and bicycle store (x3 bikes).	DEL	Written Reps	Refuse	Dismissed	12/01/2021	
20/04333/VAR	Barn to the Southwest of Manor View Landford Wood Farm Landford Wood Wiltshire, SP5 2ES	LANDFORD	Proposed removal of condition 3 of 20/01172/FUL	DEL	Written Reps	Refuse	Allowed with Conditions	18/12/2020	
20/04904/FUL	Land Adjacent to Wyndrina Grimstead Road Whaddon, SP5 3EE	ALDERBURY	Erection of 1x pair of semi-detached 3 bedroom dwellings, parking and associated works (resubmission of 19/12178/FUL)	DEL	Written Reps	Refuse	Dismissed	31/12/2020	

REPORT OUTLINE FOR AREA PLANNING COMMITTEES

Report No.

Date of Meeting	04/02/2021
Application Number	20/06105/FUL
Site Address	107 Bouverie Avenue South, Salisbury, SP2 8EA
Proposal	Erection of a 3-bed bungalow to the rear of 107 Bouverie Avenue South, associated access and driveway, and hard and soft landscaping
Applicant	Mr and Mrs Lovatt-Williams
Town/Parish Council	Salisbury City Council
Electoral Division	Harnham – Cllr Brian Dalton
Grid Ref	413920 128508
Type of application	Full Planning
Case Officer	Louise Porter

The application has been called in for consideration by the committee by Councillor Brian Dalton for consideration of the following issues:

- **Scale of development**
- **Visual impact upon the surrounding area**
- **Its relationship to adjoining properties**
- **Design - bulk, height, general appearance**
- **Environmental or highway impact**
- **Car parking.**

1. Purpose of Report

The purpose of the report is to assess the merits of the proposal against the policies of the development plan and other material considerations and to consider the recommendation that the application be approved.

2. Report Summary

The key issues for consideration are:

- Principle of development
- Character and appearance of the area
- Impact on neighbour amenity
- Highway Safety
- Trees
- Archaeology
- Waste collection
- River Avon Special Area of Conservation - Phosphate Neutral Development

3. Site Description

The application site is located on the east side of Bouverie Avenue South (Bouverie Avenue South), and comprises part of the rear garden of the host property, 107 Bouverie Avenue South, together with a strip of land adjacent to the southern boundary, which has been severed, and is bounded by close-boarded fencing, to delineate the area of the proposed access drive. The main part of the site is given over to lawn, planted beds, shrubs, hedging and trees. It is at a lower ground level than that of the parent property and its proposed retained rear garden. Within the application site, the land level drops quite steeply towards the rear boundary with the neighbouring properties in Francis Way. The proposal is to erect a detached single storey dwelling, which would be accessed via Bouverie Avenue South, via a new driveway located adjacent to the southern site boundary.

4. Planning History

S/1989/1655 (Approved with conditions) Two-storey extensions and alterations

S/1994/1550 (Approved with conditions) Renewal of permission for two storey extension and alterations

S/2002/2148 (Approved with conditions) Proposed replacement fence

19/00282/FUL (Approved with conditions) First floor extension and internal alterations

19/00619/OUT (Withdrawn) Erection of x1 dwelling to the rear of 107 Bouverie Avenue South, with associated driveway and parking (Outline application relating to access and layout)

19/05592/OUT (Refused) Erection of x1 dwelling to the rear of 107 Bouverie Avenue South, with associated driveway and parking (Outline application relating to access, appearance, layout and scale). Dismissed at Appeal (see appendix A)

5. The Proposal

Erection of a 3-bed bungalow to the rear of 107 Bouverie Avenue South, associated access and driveway, and hard and soft landscaping

6. Planning Policy

National Planning Policy Framework 2019

Wiltshire Core Strategy: 1 (Settlement Strategy), 2 (Delivery Strategy), 20 (Salisbury Community Area), 41 (Sustainable Construction), 50 (Biodiversity and Geodiversity), 51 (Landscape), 57 (Design), 58 (Heritage), 60 (Sustainable Transport), 61 (Transport and new development), 62 (Development Impacts on the Transport Network)

Salisbury District Local Plan: C6 (Special Landscape Area)

Wiltshire Local Transport Plan – Car Parking Strategy and Cycling Strategy

Creating Places SPG

Waste Storage and Collection SPG

Habitat Regulations Assessment and Mitigation Strategy for Salisbury Plain Special Protection Area

Conservation of Habitats and Species Regulations

7. Summary of consultation responses

City Council: Strongly object - due to overdevelopment, the requirement to use acoustic fencing in this residential setting and issues concerning noise, drainage, light pollution.

Wiltshire Arboriculturalist: No objections subject to condition (consultation response from previous application but still relevant)

Wiltshire Archaeology: Support subject to conditions

Wiltshire Highways: No objections, subject to conditions

Wiltshire Public Protection: Cannot support a refusal

8. Publicity

30 letters of objection were received from 27 households, and are summarised below:

- Previous application in back garden at 13 Francis Way refused so not logical or consistent to approve this one
- Negative consequences for the built and natural environment
- Causing distress for immediate neighbours
- Inappropriate location where all back gardens meet.
- Too dominant – elevated position and large footprint.
- Impact to wildlife
- Increased traffic and pollution
- Size of dwelling too large for its plot
- Design of dwelling devoid of any architectural merit
- Concern over disposal of sewage, and potential contamination. If a pump is needed to pump foul drainage up from the proposed dwelling to the sewer in Bouverie Avenue South there would be additional noise which has not been considered as part of this application.
- Inadequate parking provision
- Concern vehicles may reverse out of the driveway onto Bouverie Avenue South
- Changing the character of a residential area of plots containing one and house and garden
- Setting a precedent for other properties to also develop their rear gardens
- Junction between Bouverie Avenue and Bouverie Avenue South is very busy with both cars and pedestrians
- Drainage issue (historically drainage has been an issue in the area)
- Many new houses being built in the area so a single dwelling in this location is not essential.
- Increase in traffic where volume of traffic is already an issue
- The applicant has acknowledged the adverse impact of previous proposals on surrounding properties by making the current proposed dwelling smaller and single storey.
- The requirement to build more housing locally needs to be balanced against the need for green areas – this proposal does not justify the loss of this enclosed garden space.
- Lack of detail in surveys, plans and aerial photographs in relation to the proximity of the proposal to the affected dwellings on Francis Way.
- The proposed 'system' of shielding through careful design and selection of trees and bushes is both innovative and commendable, but requires both time and specialist knowledge, not just of horticulture but the architectural knowledge of its purpose and will take years of careful management to become effective. The very fact that such

extensive planning and design has to be employed indicates that the proposed development is unsuitable for its environment and is considered unsustainable.

- Lack of natural light to proposed dwelling due to proposed landscaping – resulting in increased heating and lighting needs.
- No guarantee that the planting measures will be preserved or maintained – could result in privacy issues in the long term.
- Lack of design detail with regards to building materials, finish, sewage and drainage.
- No evidence that the proposed dwelling will be sustainable.
- Loss of green space
- Impact of the proposed driveway on 109 Bouverie Avenue South
- Overdevelopment
- The area of garden at 107 Bouverie Avenue South provides an effective buffer and intervening space between the existing houses backing on to each other from Bouverie Avenue South (Bouverie Avenue South), Bouverie Avenue and Francis Way and as a natural haven with trees and shrubbery it provides privacy to all concerned.
- There is only a limited gap between 107 and 109 Bouverie Avenue South facing the road so this would mean that even the creation of a second driveway alone, so close to 109 Bouverie Avenue South and entailing the unjustified and unnecessary removal of some trees, would amount to overdevelopment, loss of privacy and loss of amenity both for that immediate adjacent property and for those properties opposite and further away in the road.
- The Block Diagrams submitted regarding location, landscaping and noise studies, etc. are incorrect. They do not show the correct nearby boundaries of 105 Bouverie Avenue South (Bouverie Avenue South) to 107 and more importantly nor do they show the substantial ground floor extension of 109 Bouverie Avenue South which is detrimentally affected by the proposal.
- T5 is a mature Noble Laurel providing valuable screening to 109 Bouverie Avenue South in fact benefiting both 107 and 109 Bouverie Avenue South. There is no photograph of the tree and it needs to be viewed by those making a decision on this proposal.
- Inappropriate methods used in noise assessment - A sound meter is one thing, the perceptions and reactions of human beings in this location are much more important.
- Lack of detail in the type of acoustic fencing proposed.
- The two acoustic fences being so close together could give a `tunnel `effect thus making matters worse.
- Permitted development rights should be restricted to prevent any works/changes which would be detrimental to nearby properties.
- Contrary to back land development policy
- Removal of trees
- Impact of car headlights / light pollution
- The development of 59a Bouverie Avenue in the 1960s doesn't create a precedent for other backland development as that application predates current planning laws.
- Proposed access arrangement will be potentially dangerous due to proximity of the post box and the Bouverie Close junction.
- The area was previously part of a Housing Restraint Area.
- The reason for refusal for the planning 2008 application at 103 Bouverie Avenue South is also relevant to the current case. [The Case Officer notes that there is no record of an application at 103 Bouverie Avenue South, but instead believes the third-party is referring to S/2008/2103 – demolition of 63 Bouverie Avenue and construction of 5 new dwellings]
- The proposal would detrimentally affect the outlook from properties on Francis Way and Bouverie Avenue

- Traffic existing from the proposed driveway will have had time to gather speed – undesirable due to the pavement crossing.
- The proposal does not relate positively to its landscape setting and the existing pattern of development, nor does it retain or enhance important views into and out of the site.
- Contrary to CP57
- Development is too close to (and uphill from) several houses on Francis Way.
- Proposal is described as a bungalow but “there is clearly a room in the roof with window”
- No need for market housing in this area
- Inappropriate noise assessment
- Noise assessment is based on the large bay tree adjacent to 109 being retained, yet proposed landscaping plan shows this to be removed.
- Acoustic fencing is designed to reduce continuous noise rather than intermittent intrusive noise.
- 109 Bouverie Avenue South is not drawn accurately on the block plan – missing extension.
- Loss of tranquil, open, green space made up of gardens
- With regards to 109 Bouverie Avenue South, the proposal would cause material harm to their amenity, living conditions and enjoyment of their property.
- Steepness of driveway could result in drivers needing to rev their engines
- Headlights from vehicles driving up the driveway towards Bouverie Avenue South will negatively affect the rear windows of 109 Bouverie Avenue South.
- PD rights need to be removed to restrict first-floor accommodation in the roofspace.
- 50% of the landscaping is evergreen meaning 109 Bouverie Avenue South will be further exposed to the detrimental effects of the development during the winter.
- Proposed driveway may affect tree roots
- “It is significant that the proposer does not intend to continue living at 107 Bouverie Avenue South.
- Loss of an important tree would change the concept of “avenue”
- Subsequent application for garaging is expected
- “The previous owners of the property Mr. and Mrs Maloney were assured by the applicant when negotiations were taking place for the sale of 107 that the garden would not be developed for housing”
- Work has already started without planning permission – a boundary fence for the driveway has been constructed.
- No details of flood risk
- The statement that the proposal does not affect rights of way is inaccurate – the plans show a new driveway crossing the pavement at Bouverie Avenue South.
- Q22 of the application form states that the site cannot be seen from a public place – this is inaccurate.
- Height of proposed landscaping will overshadow neighbouring properties land.
- Flood risk from use of impermeable tarmac for the driveway
- No attempt to show how building regulations can be complied with in terms of sewage and emergency services access.
- The proposal would negatively affect 59A Bouverie Avenue in terms of noise, disturbance, loss of privacy and outlook.
- The length of the proposed driveway would cause high levels of noise, disturbance and pollution to the rest of Bouverie Avenue South.

9. Planning Considerations

9.1 Principle of development:

Salisbury's settlement boundary was updated in February 2020 as part of the Wiltshire Housing Site Allocations Plan. Contrary to at the time of the previous application on the site, the application site is now within the settlement boundary of Salisbury. CP1 allocates Salisbury as a Principal Settlement, whilst CP2 states that "within the limits of development... there is a presumption in favour of sustainable development at the Principal Settlements..." As such, the principle of a new dwelling on the application site is considered acceptable.

Nb. One objection letter states that the proposal is contrary to the "back land development policy". It is believed the objector is referring to policy H16 (Housing Policy Boundaries) of the Salisbury District Local Plan. When the Wiltshire Core Strategy was adopted policy H16 of the SDLP was not saved and is therefore no longer a material planning consideration.

9.2 Character and appearance of the area:

In the appeal decision for 19/05592/OUT, the Planning Inspector noted there are a "variety of building design, heights and sizes, as well as a mix of development layouts, plot sizes, plot shapes and building lines within the immediate locality" of the application site, and concluded that the proposed 'plot to built development' ratio was comparable with other properties within the area. The proposed plot remains unchanged from the previous application, whilst the "plot to built development" ratio has altered slightly as a result of the reduced footprint of proposal, but is still comparable with other properties in the area.

The Planning Inspector had no objections to the tandem layout of the site, noting that the adjacent property 59a Bouverie Avenue South was indeed also an existing tandem development.

In terms of the impact of the proposal on the streetscene, the Planning Inspector concluded that, as a result of "the single-storey nature of the proposal and its position behind, and at a lower level than, the host property, it would not be visually obtrusive in views from the Bouverie Avenue South streetscene. Its position behind the buildings and rear gardens of neighbouring dwellings on all other sides would also mean that the building would not have a visually intrusive impact on the street scenes of the northern part of Bouverie Avenue South and of Francis Way". Again, the current proposal is considered to not be visually intrusive in the streetscene.

The proposed elevations are annotated with the proposed materials: handmade stock brickwork, plain clay tiles, painted timber joinery and conservation rooflights. These are materials commonly found in the locality and are considered appropriate. The finer details of the brick and tiles can be agreed via condition.

9.3 Impact on neighbour amenity:

In the appeal decision for 19/05592/OUT, the Planning Inspector concluded the following impacts on neighbouring dwellings:

- No.109 Bouverie Avenue South - The close proximity of the proposed access drive would lead to unacceptable levels of noise and disturbance (the latter from vehicle lights).
- No.107 Bouverie Avenue South – As per no.109, and additionally the proposed curve at the front of the access drive would lead to unacceptable disturbance from vehicle lights directly into the front elevation windows.

- No.9 Francis Way - The proposed combination of the elevated height of the new dwelling relative to no.9, its wide span gable end facing that property and its proximity to the eastern boundary, would have an oppressive and overbearing impact on the outlook of no.9. It would also give rise to potential overlooking to no.9 from the side elevation bedroom windows. Location of the parking/turning area would give rise to additional noise and disturbance impacts. Lack of landscaping details (this was a reserved matter) resulted in the inability to establish if mitigation could overcome these issues.

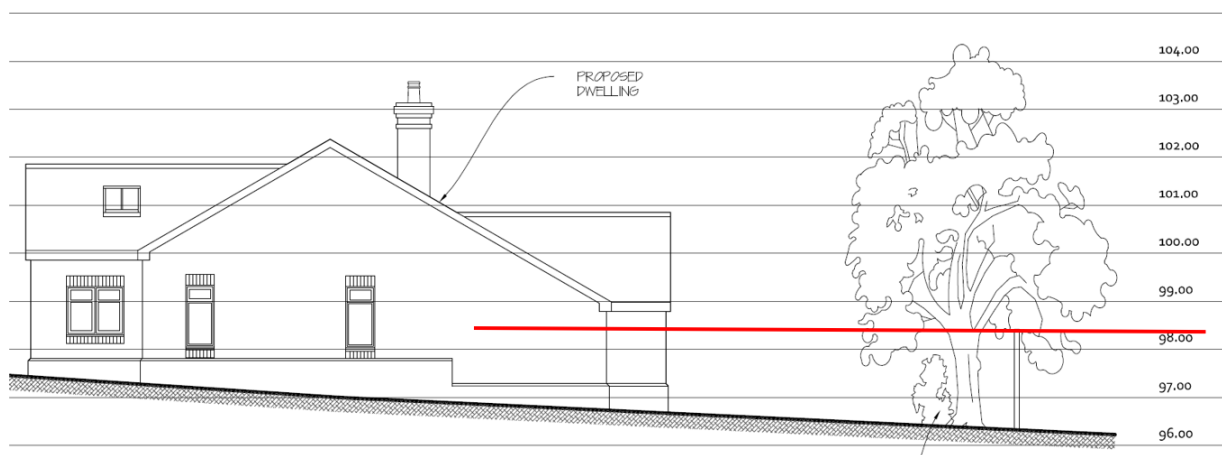
The impacts of the current proposal are discussed for each of these properties:

No.9 Francis Way:

The design of the proposed bungalow has been altered, effectively rotating its position in the plot by 90 degrees, and having lowered ground-floor level for the eastern half of the building. These two changes result in the building being positioned slightly further from the eastern boundary, a much smaller (and lower eaves/ridge height) gable protrusion, and the majority of the eastern side of the roof sloping away from the eastern boundary. The cumulative impact of these design changes is considered to be a reduced visual impact for the occupiers of 9 Francis Way.

Unlike the previous application which was an Outline with landscaping matters reserved, the current application is for Full Permission and landscaping details have been submitted. The existing hedge and trees along the eastern boundary will be retained and enhanced with additional hedgerow planting, together with a close-boarded, 2m high fence, resulting in adequate screening from overlooking between the proposed property and 9 Francis Way.

Whilst there has been no sectional drawing submitted showing the relationship between the proposed dwelling and 9 Francis Way, a sectional drawing showing the relationship between the proposed bungalow and the eastern boundary fence has been shown. A clip of this sectional drawing is included below, with the addition of a red line at a height of 1.7m from the finished ground-floor level of the proposed dwelling towards the eastern boundary fence (1.7m above ground-floor level is the standard height above which it is not considered overlooking will be possible). This shows that there will be no direct sightlines into the garden and rear ground-floor windows of 9 Francis Way. The omission of 9 Francis Way from the sectional drawing means it cannot be said for definite, but it is estimated that very little of the upper floor windows of No.9 will be visible from the proposed dwelling. In any case, the separation distance of over 20m is considered ample to not cause overlooking to such as degree that would warrant the refusal of the application.



Nos. 107 and 109 Bouverie Avenue South:

In terms of the noise and disturbance from the proposed access drive, the Planning Inspector concluded that it had not been demonstrated that the proposed mitigation measures (fences/vegetation) were sufficient to mitigate against the harmful impacts. With the current application, the applicant has submitted an Environmental Noise Impact Assessment. The assessment concluded that with 2m acoustic fencing, the impact on neighbouring properties would be negligible. Third-party objections were received objecting to the methodology of the assessment, stating that the predicted vehicular movements associated with the proposed dwelling would still cause noise disturbance to neighbouring properties. Third-party responses also raised the issue of the proposed acoustic fencing only assisting with noise attenuation on their ground-floor windows, and would do nothing to help with noise attenuation for their first-floor bedrooms.

Wiltshire Council's Public Protection department were consulted on the proposal and commented as follows:

The sound pressure level of the vehicle passing has been considered over a shorter time period below and compared against the levels recommended in BS8233. While BS8233 may not be perfect for this comparison the resulting levels for 2 vehicle movements in an hour are 14dB below the lowest level recommended for bedrooms, this is a significant amount. Even if there were considerably more vehicle movements per hour the level would still not result in an exceedance of the BS8233 levels. The level in external amenity space will also be well below the level recommended in BS8233.

The acoustic fence will provide further attenuation and protection for outside amenity space.

While I did not agree with the use of the Design Manual for Roads and Bridges (DMRB) guidance in the original report the rest of the report and the figures below indicate vehicle movements will not have a significant adverse impact on residential amenity. This does not mean they will not be noticeable to residents at the time. Given the evidence provided we would not be able to support a recommendation for refusal on noise grounds at appeal.

Therefore whilst vehicular movements associated with the proposed dwelling would be noticeable from neighbouring properties, the level of noise disturbance would be significantly lower than that set by British Standards. Conditions ensuring the driveway is constructed in a consolidated material (such as tarmac) and that the acoustic fence is erected prior to first occupation will assist with keeping the level of disturbance to a minimum.

One third party has raised the issue that the noise assessment is based on the laurel tree adjacent to 109 being retained, yet the landscaping plan shows this to be removed. The noise assessment plans show this tree with a dashed outline (as per the landscaping plan) showing that it is to be removed (nb. the trees to be retained are shown with a solid outline). In addition, the results of the noise assessment do not show any of the trees to provide any significant impact on noise mitigation. On this point, Public Protection have provided further clarification, stating "*In general vegetation provides negligible sound attenuation. It is very unlikely the laurel tree will have been included in the noise prediction models for this reason; the contours on the [noise assessment plans] don't appear to be impacted by the trees. Even if they were included their removal will not have an impact on the overall conclusions*".

In terms of the concerns over disturbance from car headlights, any impact at the front of neighbouring properties is considered to be similar to the current situation where headlights

shine over neighbouring properties as they swing into or out of driveways. The introduction of the driveway at the rear of neighbouring properties would have the potential to introduce light disturbance to the rear of neighbouring properties, however with the 2m high fencing combined with planned vegetation, dipped car headlights are not expected to reach neighbouring properties rear windows, despite the differences in land levels.

A third party has raised the issue that the proposed landscaping will cause overshadowing to neighbouring properties. There is no control over what vegetation could currently be planted within the site, and therefore the applicants could undertake this aspect of the proposal regardless of the outcome of this planning application.

Public Protection have also requested two conditions relating to the construction phase – one requiring a construction management plan and the other restricting burning of waste on site. Planning permissions for a single dwelling do not usually include a condition for a construction management plan, due to the relatively small scale of the works and there being other non-planning legislation that effectively controls this. Likewise, burning of waste on site would be controlled by other non-planning legislation. Therefore both of these issues would not pass the six tests of planning conditions set out in para 55 of the NPPF.

9.4 Highway Safety

9.4.1 Site Access

The scheme has changed from that previously considered and a new access is now included, meaning that each property will benefit from its own access. Wiltshire Highways requested that the first 2m of landscaping between the two driveways be restricted in height to allow inter-visibility if vehicles should exit the two driveways at the same time. An amended plan annotated with the height of landscaping restricted to 1m for the first 2m of driveway was then submitted by the applicant, overcoming this issue. Pedestrian inter-visibility splays were also added to allow vision between emerging drivers and passing pedestrians.

Wiltshire Highways also commented the following:

The new driveway measures approximately 3m in width along its length, it is my understanding that a fire appliance requires 3.7m in width if the property is located more than 45m from the highway. I suggest that further advice is sought from the Fire Service as other options may be available (sprinklers etc).

This comment was forwarded to the agent, however it was stressed that this issue is covered by Building Control and therefore is not a material planning consideration.

9.4.2 Car Parking

The Wiltshire Local Transport Plan (2011-2026) [Car Parking Strategy](#) sets out the parking standards for different land uses. Use class C3 (dwellings) requires the following:

Bedrooms	Minimum Spaces
1	1 space
2 to 3	2 spaces
4+	3 spaces
Visitor Parking	0.2 spaces per dwelling (unallocated)

The parking spaces should meet the minimum sizes of 2.4m x 4.8m.

2 parking spaces are to be provided on site for the proposed dwelling, together with suitable turning space, thus meeting the requirements set out in the Wiltshire Local Transport Plan

(2011-2026) Car Parking Strategy for a 3-bed dwelling. Whilst part of the current driveway parking area for 107 Bouverie Avenue South will be lost to the driveway for the proposed dwelling, sufficient parking provision will be retained for the existing property.

9.4.3 Cycle Parking

The Wiltshire Local Transport Plan (2011-2026) [Cycling Strategy](#) states that the cycle parking standards apply to both new build and change of use and that the tabulated minimum standard should be observed for the relevant use.

Land Use	Minimum Cycle Parking Standards
C3 Dwelling houses and flats	1 covered space per bedroom for up to 3 bedroom dwellings.
	3 covered spaces per unit for 4 bedroom dwellings
	4 covered spaces per unit for 5 bedroom dwellings (etc)
	+1 visitor space per 20 bedrooms

The proposed site plan indicates cycle storage to be provided within the garden area to the north of the site. The specific details of the storage can be conditioned, together with a requirement for the approved storage to be in situ prior to the first occupation of the dwelling.

9.5 Trees

The application site is located off a tree lined avenue; there are a number of trees on the application site and adjacent to the application site. An arboricultural survey was submitted with the application.

In 2019 3x trees to the front of the site were given Tree Preservation Orders (TPOs). The Council's Arboricultural Officer visited the whole of the application site during the course of the previous application, but did not feel he could justify a preservation order on any of the other trees affected by the proposed development. The Arboricultural Officer's request for a condition requiring a Tree Protection Plan and Arb Method Statement are still considered appropriate for the current proposal.

9.6 Archaeology

The application site is located within an area of archaeological significance, as such the Council's archaeologist was consulted as part of the application process, he raised no objections subject to condition, and full comments are included below:

Harnham is an archaeologically significant area, with a medieval core, and with prehistoric remains within and immediately outside its suburban spread. Recent archaeological research revisiting Palaeolithic remains from the area, as well as the results of ongoing evaluation work immediately west of the settlement have focussed attention on the area and enhanced understanding of its archaeological potential. This particular site includes a large open space within what is, otherwise, a developed area and, as such, affords an opportunity to gather further information about the historic environment in this area and about the relationship between earlier sites, such as Little Woodbury to the south and the Saxon/medieval settlement at the river crossing.

Therefore, I would advise that any groundworks associated the construction of the house and associated driveway, together with any landscaping episodes be made the subject of archaeological monitoring. This monitoring to be secured via a condition to be attached to any planning permission that may be issued.

9.7 Waste collection

Table 6 within the Waste Storage and Collection SPG sets out the requirements for new developments in terms of waste collection provision. The proposed plans include bin storage to be located within the front garden of the proposed dwelling and a collection point adjacent to the roadside within the curtilage of the proposed property. There is a clear access route between the storage and collection points. As such, the new dwelling requirements detailed within the Waste Storage and Collection SPG have been met.

9.8 River Avon Special Area of Conservation - Phosphate Neutral Development

Core Policy 50 of the Wiltshire Core Strategy and the National Planning Policy Framework requires that the planning authority ensures protection of important habitats and species in relation to development and seeks enhancement for the benefit of biodiversity through the planning system.

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

- Development which generates wastewater as part of its commercial processes other than those associated directly with employees (e.g. vehicle wash, agricultural buildings for livestock, fish farms, laundries etc)

- Development which provides overnight accommodation for people whose main address is outside the catchment (e.g. tourist, business or student accommodation, etc)

Following the cabinet's resolution on 5th January 2021, which secured a funding mechanism and strategic approach to mitigation, the Council has favourably concluded a generic appropriate assessment under the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019. This was endorsed by Natural England on 7 January 2021. As this application falls within the scope of the mitigation strategy and generic appropriate assessment, it is concluded that it will not lead to adverse impacts alone and in-combination with other plans and projects on the River Avon SAC.

9.9 Miscellaneous Issues

9.9.1 Foul Drainage:

A neighbour has questioned how foul drainage will be disposed of, due to the site being positioned at a lower elevation than the adjacent public sewer in Bouverie Avenue South, and questions whether a pump would be required. By default new development should connect to the public sewers when they are in the locality of the development. As such, the proposal meets this requirement. Building regs will ensure the type of pump is adequate for its purpose. If any noise impacts were raised as a result of the pump, this could be dealt under separate noise nuisance legislation.

9.9.2 Drainage/Flooding:

The site is not situated in Flood Zones 2 or 3 and the site area is less than 1 hectare in size. Therefore, in line with the Environment Agency advice, the site is not considered to be at risk of surface water flooding. Instead Surface water drainage issues on small scale development such as this are covered via building regulations.

9.9.3 Emergency Services Access:

A neighbour has raised the issue that the application does not detail how the proposal would be compliant with building regulations in respect to access for the emergency services. This is not a material planning consideration given that it is covered by other non-planning legislation. However out of courtesy, the case officer did raise the issue with the agent, explaining that if any amendments to the proposal were required in order to satisfy building regulations then planning further planning permission may be required.

9.9.4 Inaccuracies in the planning application documents:

A neighbour has highlighted that Q22 of the application form has been completed incorrectly, in that the site can be seen from a public place. Q22 refers to a planning officers site visit and whether the whole site can be seen from a public place, or whether the officer will need access onto private land in order to see the whole site. As only a limited part of the site can be seen from a public place, Q22 has been completed correctly.

One neighbour has stated that the proposal is described as a bungalow on the application form, yet “there is clearly a room in the roof with window”. Two rooflights are proposed on the bungalow, however these serve the kitchen where it is understood that there would be a vaulted ceiling. Whilst the plans show insufficient head room to be able to create rooms within the roof space, it is still considered appropriate to remove permitted development rights for any additional windows/dormers etc above ground-floor ceiling height.

A neighbour has highlighted that Q8 of the application form has been completed inaccurately in terms of the question “Do the proposals require any diversions/extinguishments and/or creation of rights of way?”. The applicant has selected “no” which is the correct answer. There are no rights of way on the site and no additional rights of way are proposed (nb. the pavement and the proposed driveway do not fall within the definition of rights of way).

Neighbours have also raised the issue that 109 Bouverie Avenue South has not been drawn accurately on the plans. This is most likely due to the base map purchased by the applicant not having been updated since the rear extension at 109 Bouverie Avenue South being built. As per previous applications however, the planning officer is aware of this and the impact of the proposal has been considered against the built environment.

Neighbours have highlighted that some of the proposed works have already begun without planning permission – i.e. the erection of the boundary fence for the driveway. Under Part 2, Class A of the General Permitted Development Order 2015 (as amended), the erection of a fence up to 2m high can be erected without planning permission (subject to certain conditions). Therefore, subject to the fence being constructed in accordance with said conditions, the fence would not be unlawful.

9.9.5 Future occupants of application site:

One neighbour states that “It is significant that the proposer does not intend to continue living at 107 Bouverie Avenue South”. Whether or not the applicant intends to live within the proposed development, or the existing house is not a material planning consideration.

9.9.6 Future development:

One neighbour has raised concerns that if the current application is approved, then it is likely that a further application will be submitted for garaging. Regardless of whether or not this may be the applicant’s intention, this speculation is not a material planning consideration. Neither is the claim that “the previous owners of the property Mr. and Mrs Maloney were assured by the applicant when negotiations were taking place for the sale of 107 that the garden would not be developed for housing”

9.9.7 Sustainable Construction:

The WCS' key strategic objective is to address climate change. It requires developers to meet this objective under Core Policy 41 (Sustainable Construction), which specifies sustainable construction standards required for new development. For new build residential development the local planning authority has previously sought energy performance at "or equivalent to" Level 4 of the Code for Sustainable Homes via planning condition. However, the LPA is currently no longer applying CP41 and related conditions to applications given it has effectively been superseded by the current government direction of travel favouring Building Regulations for these matters.

9.9.8 S106 Obligations and CIL:

In line with government guidance issued by the DCLG (November 2014) Planning Contributions (Section 106 Planning Obligations), 1 proposed dwelling does not generate the need for S106 contributions. The Community Infrastructure Levy (CIL) came into effect on the 18th May 2015; CIL will be charged on all liable development granted planning permission on or after this date and would therefore apply to this application. However, CIL is separate from the planning decision process, and is administered by a separate department.

10. Conclusion (The Planning Balance)

The proposed dwelling will be located within the limits of development in a residential area. The single-storey nature of the dwelling, combined with its stepped ground-floor levels, result in a subservient building which would cause no overshadowing to neighbouring properties. Subject to conditions ensuring boundary fencing and vegetation, the proposed dwelling would not cause overlooking to neighbouring properties. The design of landscaping would result in minimal noise and light disturbance to neighbouring properties with regard to vehicular movements. Adequate access, turning and parking can be provided on site. There would be no loss of important trees within the site. Therefore it is concluded that the proposal is compliant to all relevant planning policies and planning legislation.

11. RECOMMENDATION:

That planning permission be GRANTED subject to the following conditions:

Conditions

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

REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

P657/01 (Site Location Plan) received 22/07/2020

P657/03 Rev E (Proposed Block Plan) dated 06/01/2021 received 08/01/2021

P657/04 Rev A (Proposed Floor Plans) dated 17/04/2021 received 22/07/2020

P657/05 Rev B (Proposed Elevations) dated 06/01/2021 received 08/01/2021

P657/06 Rev A (Proposed Site Sections Sheet 1 of 2) dated 17/04/2021 received 22/07/2020

P657/07 (Proposed Site Sections Sheet 2 of 2) received 22/07/2020

P657/08 (Proposed Roof Plan) dated 17/04/2021 received 22/07/2020

18/12/208/LAN_01b Rev B (Landscape Proposals) dated 06/10/2020 received 07/10/2020
Tree Survey & Arboricultural Impact Assessment V2.0 dated July 2020 received 22/07/2020
Planning Statement dated July 2020 received 22/07/2020
Environmental Noise Impact Assessment (ref IMP5671) dated July 2020 received
22/07/2020

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

3. No development shall commence within the area indicated by application 20/06105/FUL until:

a) A written programme of archaeological investigation, which should include on-site work and off-site work such as the analysis, publishing and archiving of the results, has been submitted to and approved by the Local Planning Authority; and

b) The approved programme of archaeological work has been carried out in accordance with the approved details.

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

4. No development shall take place on site, including site clearance, storage of materials or other preparatory work until a Tree Protection Plan and Arboricultural Method Statement has been submitted to the Local Planning Authority and approved in writing. Thereafter the development shall be undertaken only in accordance with the approved details, unless the local Planning Authority has given its prior written consent to any variation. The Arboricultural Method Statement should include specific details of how any work, within the RPA of a retained tree, can be carried out without causing a significant negative impact on the tree or its root system (including compaction of the ground).

REASON: To comply with the duties indicated in Section 197 of the Town and Country Planning Act 1990, so as to ensure that the amenity value of the most important trees, shrubs and hedges growing within or adjacent to the site is adequately protected during the period of construction.

5. No development shall commence on site above ground floor slab level until the exact details and samples of the materials including any finishes to be used for the external walls and roofs have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, in the interests of visual amenity and the character and appearance of the area.

6. The dwelling hereby approved shall not be occupied until details of the secure covered cycle parking have been submitted to and approved in writing by the Local Planning Authority, and the secure covered cycle parking has been provided on site in accordance with the approved details. The secure covered cycle parking shall be retained for use at all times thereafter.

REASON: To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than the private car.

7. The dwelling hereby approved shall not be occupied until details of the acoustic fencing have been submitted to and approved in writing by the Local Planning Authority, and the

fencing has been provided on site in accordance with the approved details. The acoustic fencing shall be retained at all times thereafter.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, in the interests of amenity and the character and appearance of the area.

8. The dwelling hereby approved shall not be occupied until a 2m high, close-boarded fence has been erected along the entire length of the eastern boundary (as shown on plan P657/03 Rev E). The fence shall be retained in perpetuity

REASON: In order to protect the privacy of neighbouring properties.

9. The dwelling hereby permitted shall not be occupied until the entire driveway, parking area and turning area (as shown on plan P657/03 Rev E) have been consolidated and surfaced (not loose stone or gravel). These areas shall be maintained as such thereafter.

REASON: In the interests of highway safety.

10. The dwelling hereby approved shall not be occupied until the visibility splays shown on the approved plan (P657/03 Rev E) have been provided with no obstruction to visibility at or above a height of 1m above the nearside carriageway level. The visibility splays shall be maintained free of obstruction at all times thereafter.

REASON: In the interests of highway safety

11. The dwellings hereby approved shall not be occupied until the Building Regulations Optional requirement of maximum water use of 110 litres per day has been complied with.

REASON: To avoid any adverse effects upon the integrity of the River Avon Special Area of Conservation (SAC).

12. All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority.

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), there shall be no additions to, or extensions or enlargements of any building forming part of the development hereby permitted.

REASON: To safeguard the character and appearance of the area in the interests of the amenity of the area and to enable the Local Planning Authority to consider individually whether planning permission should be granted for additions, extensions or enlargements

14. Notwithstanding the provisions of the Town and Country Planning (General Permitted

Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), no windows, doors, rooflights or other form of openings other than those shown on the approved plans, shall be inserted in the development hereby permitted.

REASON: In the interests of residential amenity and privacy.

INFORMATIVE:

The applicant is advised that the development hereby approved may represent chargeable development under the Community Infrastructure Levy Regulations 2010 (as amended) and Wiltshire Council's CIL Charging Schedule. If the development is determined to be liable for CIL, a Liability Notice will be issued notifying you of the amount of CIL payment due. If an Additional Information Form has not already been submitted, please submit it now so that we can determine the CIL liability. In addition, you may be able to claim exemption or relief, in which case, please submit the relevant form so that we can determine your eligibility. The CIL Commencement Notice and Assumption of Liability must be submitted to Wiltshire Council prior to commencement of development. Should development commence prior to the CIL Liability Notice being issued by the local planning authority, any CIL exemption or relief will not apply and full payment will be required in full and with immediate effect. Should you require further information or to download the CIL forms please refer to the Council's Website

www.wiltshire.gov.uk/planninganddevelopment/planningpolicy/communityinfrastructurelevy.

INFORMATIVE:

The Archaeology work should be conducted by a suitably experienced, professionally recognised archaeological contractor following the submission of a Written Scheme of Investigation (WSI) that has been reviewed and approved by the archaeological advisors to Wiltshire Council. The costs of this work to be borne by the applicant.

INFORMATIVE: Please note that Council offices do not have the facility to receive material samples. Please deliver material samples to site and inform the Planning Officer where they are to be found.

Appendix A – Appeal Decision for 19/05592/OUT:



Appeal Decision

Site visit made on 9 January 2020

by S Leonard BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 February 2020

Appeal Ref: APP/Y3940/W/19/3238622

Land to the rear of 107 Bouverie Avenue South, Salisbury SP2 8EA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr and Mrs Williams against the decision of Wiltshire Council.
 - The application Ref 19/05592/OUT, dated 10 June 2019, was refused by notice dated 13 September 2019.
 - The development proposed is erection of one dwelling to the rear of 107 Bouverie Avenue South, with associated driveway and parking.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr and Mrs Williams against Wiltshire Council. This application is the subject of a separate Decision.

Procedural Matters

3. The planning application was made in outline with landscaping as the only matter reserved.

Main Issues

4. The main issues are the effect of the proposal on:
 - The character and appearance of the area;
 - The living conditions of the occupiers of nos.107 and 109 Bouverie Avenue South and 9 Francis Way in respect of noise and disturbance, privacy and outlook impacts; and
 - The living conditions of the future occupiers of the development in respect of privacy.

Reasons

Character and appearance

5. The appeal site is located on the east side of Bouverie Avenue South (BAS), and comprises part of the rear garden of the host property, 107 BAS, together with a strip of land adjacent to the southern boundary, which has been severed, and is bounded by close-boarded fencing, to delineate the area of the

<https://www.gov.uk/planning-inspectorate>

proposed access drive. The main part of the site is given over to lawn, planted beds, shrubs, hedging and trees. It is at a lower ground level than that of the parent property and its proposed retained rear garden. Within the appeal site, the land level drops quite steeply towards the rear boundary with the neighbouring properties in Francis Way. The proposal is to erect a detached single storey dwelling, which would be accessed via the existing vehicular access from BAS, via a new driveway located adjacent to the southern site boundary.

6. The site is located within an established residential area. During my site inspection, I observed that there are variety of building designs, heights and sizes, as well as a mix of development layouts, plot sizes, plot shapes and building lines within the immediate locality of the appeal site.
7. The Council has confirmed that the former Housing Restraint Area policy, within which the appeal site was located, no longer applies. Whilst many properties sit within large plots, such generous plots are not a uniform characteristic of the locality. Even allowing for discrepancies within the figures of the appellant and third parties, the appellant has demonstrated that there are variety of 'plot to built development ratios' within the immediate area, and that the appeal proposal would result in ratios for the new development and the host property which are comparable with those within the vicinity of the site.
8. Tandem layout residential developments are evident within the locality of the appeal site, and have been referred to by both main parties. The Council has drawn my attention to the fact that these developments have not been recently approved under current national and local planning policies and that the particular site circumstances differ from those of the appeal site. Nonetheless, I find that this arrangement of development forms part of the generally mixed layout of development within the site locality, including 59a BAS immediately to the north of the appeal site. The Council has confirmed there are no development plan policies restricting tandem residential development.
9. Due to the single storey nature of the new dwelling and its position behind, and at a lower ground level than, the host property, it would not be visually obtrusive in views from the BAS street scene. Its position behind the buildings and rear gardens of neighbouring dwellings on all other sides would also mean that the building would not have a visually intrusive impact on the street scenes of the northern part of BAS and of Francis Way.
10. Driveways to the side of dwellings are an accepted feature of built-up residential areas, and exist within the appeal site vicinity. Close boarded fencing is also a typical form of boundary treatment within urban areas. Furthermore, the proposal would utilise the existing access point from BAS and would retain the protected tree in the southwest corner of the site adjacent to the site frontage, thereby minimising the impact on the site frontage and BAS street scene. Whilst some tree removal will be necessary to accommodate the access drive and dwelling, such tree removal could take place in the absence of any development proposal. The proposed building footprint is such that sufficient space would remain around it to provide soft landscaping and substitute tree planting.
11. For the above reasons, I therefore conclude that the proposal would not harm the character and appearance of the area. As such, it would accord with Core Policy 57 of the Wiltshire Core Strategy 2015 (WCS) and Objective 16 of the

Creating Places Design Guide Supplementary Planning Guidance 2006, in so far as this Policy and guidance require new development to be of a high standard of design, creating a strong sense of place through drawing on the local context, taking account of their local setting, and being complimentary to the locality. For similar reasons, the development accords with guidance in Chapter 12 of the National Planning Policy Framework (the Framework) which requires high quality design.

Living conditions of neighbours

12. The new dwelling would be accessed via a new driveway which would run close to the northern side boundary of 109 BAS, adjacent to that dwelling and its rear garden. During my site visit I observed that the application drawings do not include the single storey kitchen/dining room extension to the rear of no.109. This incorporates glass bi-fold doors along most of its rear elevation, leading directly onto a large, raised patio. Beyond this is the lawned rear garden, at the end of which, and close to the rear boundary, is a paved area, summer house and shed, and various domestic paraphernalia evidencing the use of this particular part of the garden.
13. The new access drive would run alongside the whole of the length of the dwelling at no.109 and its rear patio and garden. During my site inspection I found that it was apparent from the layout of the patio and rear garden, that the area adjacent to the appeal site is well-used as an external amenity area. In addition, I observed that the north side wall of no.109 includes a number of principal windows comprising ground floor study and kitchen windows and first and second floor bedroom windows.
14. The proposed proximity of the new access drive to the southern side boundary is such that the anticipated vehicle movements associated with a four bedroom family sized dwelling, including visitor and delivery vehicles, would lead to unacceptable levels of noise and disturbance (the latter from vehicle lights) within close proximity to no.109, including the aforementioned principal windows, patio and rear garden of that property, therefore causing significant harm to the living conditions of the occupiers of this dwelling.
15. The appellant proposes to mitigate the impact on no.109 through the provision of fencing and vegetation adjacent to the boundary. However, in this instance, I am not satisfied that it has been satisfactorily demonstrated that such potentially harmful impacts can be mitigated against. The use of a non-loose surface material would go some way to mitigate against noise impacts. However, this would not mitigate against noise and disturbance impacts associated with vehicle engines and headlights. The access drive would run for a considerable length within close proximity to the boundary with no.109. It would need to incorporate the existing significant drop in land levels from the front to the rear of the site. Insufficient cross-sectional drawings have been provided to demonstrate how the driveway would incorporate the ground level changes, which potentially would result in the revving of vehicles engines where the driveway rises, and the potential for increased disturbance from vehicle lights as a result of the driveway incline in relation to the neighbouring property.
16. The potential for noise and disturbance to no.109 is exacerbated by the proposed positioning of the turning and parking area and main dwelling entrance adjacent to the rear garden of no.109, potentially resulting in

- additional noise disturbance from the banging of vehicle doors, driver and passenger conversations and in-vehicle music/entertainment systems.
17. Furthermore, in addition to the proposed removal of one tree to accommodate the driveway, it is unclear how much of the remaining boundary landscaping, which currently provides effective boundary screening to the rear garden of no.109, would be removed, since landscaping is a matter reserved for future determination.
 18. Accordingly, in the absence of precise details of the driveway construction and proposed boundary treatment, I find that it has not been satisfactorily demonstrated that material harm would not be caused to the living conditions of the occupiers of 109 BAS in respect of noise and light disturbance. For similar reasons, I find that the aforementioned harmful impacts would also apply to the host property at no.107, given the proximity of the access drive to the front and side walls of that property, both of which contain principal ground and first floor windows. In this respect it is notable that the proposed curve at the front of the access drive, to accommodate the protection of the frontage tree, would result in vehicles accessing the proposed dwelling almost facing the front wall of the host property as they enter the site. This raises the potential for noise and light disturbance in relation to the front windows of no.107.
 19. The appellant has drawn my attention to a number of approved developments elsewhere involving back-land residential developments with access driveways adjacent to neighbouring properties. However, none of these cases are identical to the appeal scheme in respect of the exact site circumstances and land levels. In any case, I must consider the appeal proposal on its individual planning merits, and within the context of the appeal proposal in relation to the immediate surrounding properties. The existence of other driveways serving tandem development in other locations does not justify the harm that I have found for the reasons set out above.
 20. The appeal site adjoins the rear gardens of nos. 9 and 11 Francis Way, which are sited at a lower ground level. No.11 is set further forward within its plot and has a large and long back garden, of which only part abuts the appeal site. No.9, however, is set further back into its plot and has an L-shaped rear garden which wraps around the appeal site. During my site visit, I observed that the part of the rear garden immediately adjacent to the appeal site appears well-used as an external amenity area, including a large paved patio area immediately to the rear of the house with table and chairs, various raised beds, a greenhouse, and further garden seating and domestic paraphernalia evidencing the well-used nature of this part of the site. The rear elevation of no.9 includes living room, dining room, kitchen and garden room windows having a direct outlook onto this part of the garden. Although not shown on the planning application drawings, the garage of no.9 has been extended to provide a utility room/store leading directly onto this part of the garden.
 21. The ground levels of the appeal site drop eastwards towards the rear of the site, and this continues into the rear garden of no.9, so that dwelling and its rear patio are at a significantly lower ground level than the appeal site. The application drawings do not include a full cross-section drawing through the appeal site and no.9. However, the information provided on the submitted drawings appears to indicate that the land level will be raised at the eastern end of the new dwelling, and that this would result in a ground floor level which

- would be similar to that of the roof height of the garage of no.9, having regard to the submitted topographic survey.
22. Accordingly, I find that the proposed combination of the elevated height of the new dwelling relative to no.9, its wide span gable end facing that property, and its proximity to the eastern side boundary, would have an oppressive and overbearing impact on the outlook of the aforementioned rear elevation and garden of no.9. It would also give rise to potential overlooking to no.9 from the side elevation bedroom windows.
23. Although set further away from the boundary with no.9 than the eastern side of the new dwelling, its front elevation would also face that property's garden due to the L-shaped nature of the garden. This would increase the harmful impact on the outlook from no.9. In addition, the impact on that property would be exacerbated by the proposed positioning of the parking and turning area to the front of the new dwelling, which would give rise to additional noise and disturbance impacts resulting from the vehicle movements associated with the new dwelling, similar to the aforementioned impacts on the rear garden of 109 BAS.
24. In the absence of detailed cross-section drawings, which include the site of no.9, and detailed boundary treatment and landscaping proposals, I cannot be assured that the aforementioned harmful impacts on the living condition of the occupiers of no.9 could be satisfactorily mitigated. Whilst there is some mature landscaping adjacent to the boundary, this does not currently provide complete screening of the appeal site from no.9 and whilst the appellant states that this will be retained and that additional landscaping can be secured by means of a condition, landscaping is not for determination under this current application.
25. The appellant asserts that the appeal proposal would have a less harmful impact on the living conditions of neighbouring property occupiers with regard to the issue of overbearing impact than that of an outbuilding which could potentially be built on the appeal site under permitted development rights in accordance with The Town and Country Planning (General Permitted Development) Order 2015 (the GPDO).
26. However, there is limited evidence to suggest that the impacts described by the appellant would come to pass. No formal application for a certificate of lawfulness with respect to an outbuilding at the appeal site has been determined by the Council prior to the appeal planning application, and the determination of what could potentially be built under permitted development rights is not a matter for me to decide within the context of an appeal made under Section 78 of the Act. Therefore, this consideration has minimal weight in my decision.
27. For the above reasons, I therefore conclude that the proposed development fails to satisfactorily demonstrate that there would be no material harm to the living conditions of the occupiers of nos. 107 and 109 Bouverie Avenue South in respect of noise and disturbance, and to the occupiers of 9 Francis Way having regard to noise and disturbance, privacy and outlook impacts. As such, the proposal would fail to accord with WCS Policy 57, which amongst other things, seeks to ensure that new development has regard to the compatibility of adjoining buildings and uses and impact on the amenities of existing occupants. This is generally consistent with the Framework, which seeks to

ensure that developments will function well and promote a high standard of amenity, health and well-being for existing and future users (paragraph 127).

Living conditions of future occupiers

28. The Council is concerned that, due to the proposed siting of the new dwelling in relation to surrounding properties, the occupiers of the appeal proposal would experience inadequate levels of privacy. Notwithstanding that the site is surrounded by two storey properties and that the land level of the appeal site is lower than that of neighbouring properties in BAS, I find that the separation distances between the new bungalow and the neighbouring properties in BAS to be such that the new dwelling would not experience harmful overlooking from the neighbouring dwellings.
29. For the above reason, I therefore conclude that the proposed development would provide appropriate living conditions for future occupants, with particular reference to privacy. In this respect, therefore, the appeal scheme accords with WCS Policy 57, in so far as it aims to ensure that new development has regard to the compatibility of adjoining buildings and uses and ensures that appropriate levels of amenity are achievable within the development itself, including the consideration of privacy. This is generally consistent with the Framework, which seeks to ensure that developments will function well and promote a high standard of amenity, health and well-being for existing and future users (paragraph 127).

Other Matters

30. The Council accepts that it is unable to demonstrate a five year supply of deliverable housing sites in respect of the South Wiltshire Housing Market Area (HMA). It considers that it has a 4.45 year supply and this figure is not disputed by the appellant.
31. Paragraph 11 of the Framework applies, which states that relevant policies for the supply of housing should not be considered up to date where a five year housing land supply cannot be demonstrated. Paragraph 11 states that where relevant policies are out of date, permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance, including designated heritage assets, provides a clear reason for refusing the development proposed, or the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole or specific policies in the Framework indicate that development should be restricted.
32. Paragraph 8 of the Framework defines the three dimensions of sustainable development as performing economic, social and environmental objectives. When judged against some of the core planning principles of the Framework, the appeal proposal would perform well in that it would be in an urban area where access to facilities is likely to be greatest. Also, there would be a small social benefit in providing an additional housing unit and economic benefits as a result of the construction and occupation of a new house.
33. However, a good standard of residential amenity is also a key aspect of sustainable development. The harm I have identified to the living conditions of the occupiers of neighbouring properties would be significant. As a result, the social role of sustainable development would not be achieved. Whilst the

Framework encourages the effective use of land in meeting the need for homes, including giving substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, this is not unqualified. The provision of one additional unit would make little meaningful difference, and would not address or outweigh the aforementioned harm that I have identified to the living conditions of the occupiers of neighbouring properties.

34. Therefore, when assessed against the policies in the Framework taken as a whole, the adverse impacts would significantly and demonstrably outweigh the benefits. Therefore, the proposal would not be a sustainable form of development. The conflict with the development plan is not outweighed by other considerations including the Framework.

Conclusion

35. For the reasons given above, I conclude that the appeal should be dismissed.

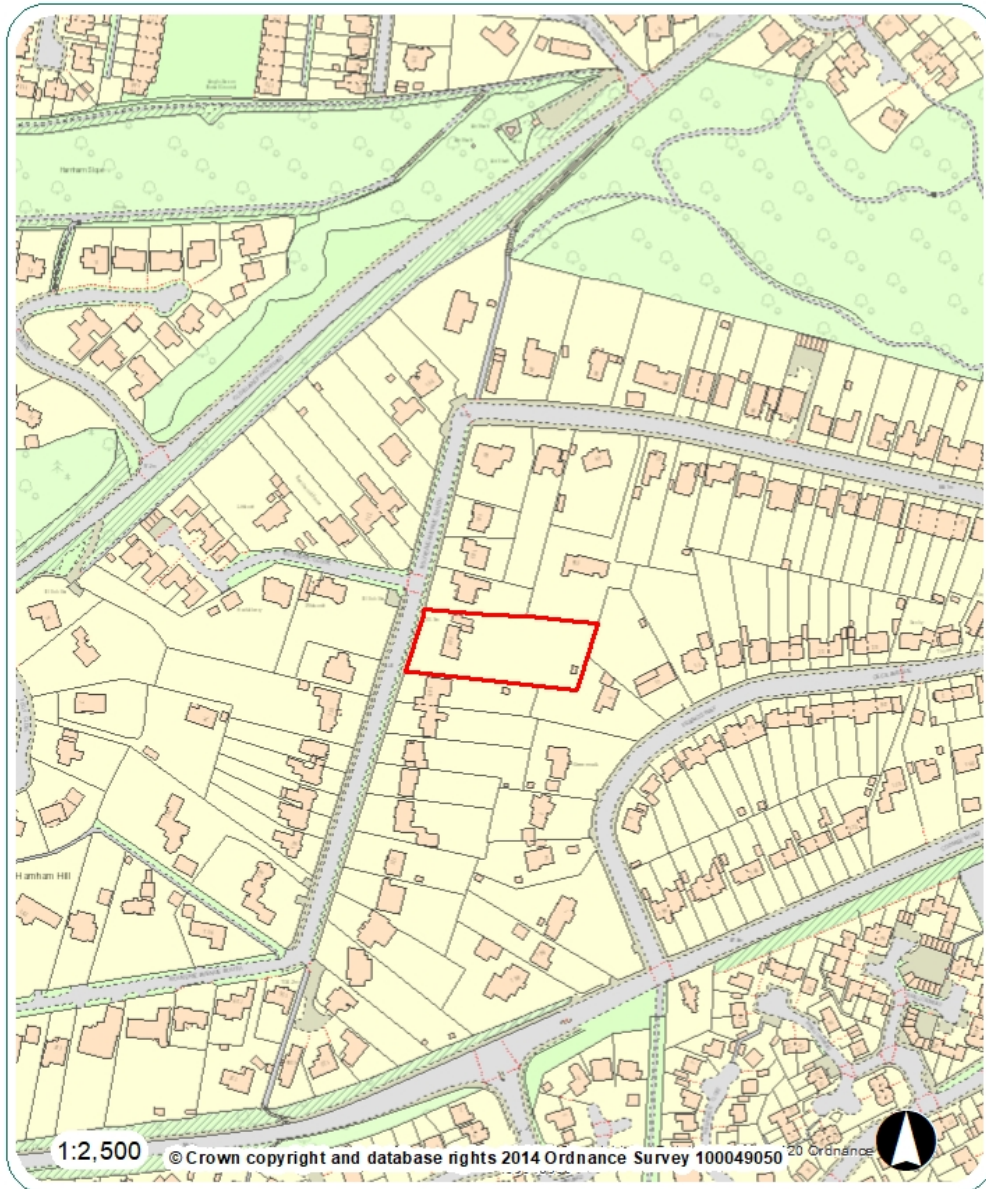
S Leonard

INSPECTOR

This page is intentionally left blank



This page is intentionally left blank



This page is intentionally left blank

REPORT OUTLINE FOR AREA PLANNING COMMITTEES

Report No.

Date of Meeting	04 February 2021
Application Number	19/11849/FUL
Site Address	2 Pinckneys Way Durrington SP4 8BU
Proposal	Erection of three pairs of semi-detached houses with associated access, parking and landscaping following the demolition of existing property
Applicant	Mr D Quest
Town/Parish Council	DURRINGTON
Electoral Division	Durrington and Larkhill – Cllr Graham Wright
Grid Ref	415506 144353
Type of application	Full Planning
Case Officer	Julie Mitchell

Reason for the application being considered by Committee

Cllr Graham Wright has called the item to committee on the grounds of design and scale of the development, the relationship to adjoining properties, the visual impact upon the surrounding area, and highways impact and car parking.

1. Purpose of Report

The purpose of the report is to assess the merits of the proposal against the policies of the development plan and other material considerations and to consider the recommendation that the application be approved.

2. Report Summary

The main issues which are considered to be material in the determination of this application are listed below:

- Principle of Development;
- Character of the Area;
- Design;
- Residential Amenity;
- Highway Safety and Parking Provision;
- Ecology Implications; and
- Trees

The application has generated an objection from Durrington Town Council. Third party representations have been received from a number of local residents with a total of 10

neighbouring occupiers raising objections/concerns. Issues raised by consultees have been resolved or addressed by recommended conditions where appropriate.

3. Site Description

The site is situated in the existing built up area of Durrington as defined by Wiltshire Core Strategy (WCS) policies CP1 (Settlement Strategy), CP2 (Delivery Strategy) and CP4 (Amesbury Community Area). It is surrounded on all sides by other residential properties and their associated amenity/parking provision. The existing dwellings in this area are an eclectic mix of styles, ages and heights ranging from bungalows to 2 storey properties; and include detached and semi-detached properties. As a result, there is no general uniformity in the street scene.

The site currently comprises a large, spacious residential plot situated at the corner of Stonehenge Road and Pinckneys Way. The site is developed with one detached single storey dwelling sitting roughly centrally within the plot but at an angle to its boundaries. The remainder of the site is currently used for parking, gardens and incidental outbuildings and garaging. The site level is relatively flat. Access to the site is served off Pinckneys Way which adjoins the south-western boundary of the site. The boundary to Stonehenge Road being an uninterrupted hedgerow and there are a number of trees in the gardens between the boundary and dwelling along this site of the site.

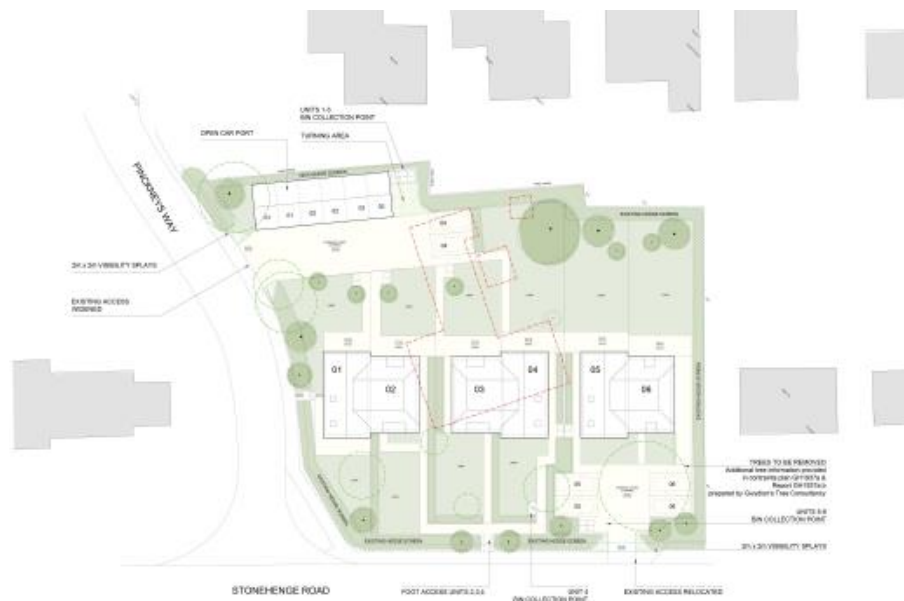
4. Planning History

No relevant planning history has been identified for the site.

5. The Proposal

This is a full planning application proposing the demolition of the existing dwelling and outbuildings and development of 6 two-storey dwellings arranged as three pairs of semi-detached houses which would front Stonehenge Road. The existing access from Pinckneys Ways would be retained giving access to a parking area for 4 of the dwellings comprising 6 covered parking bays and 2 open parking bays (2 per dwelling). Following revisions to the scheme, a single vehicular access off Stonehenge Road would be formed to provide access to 2 of the dwellings with 2 parking space per dwelling. A separate pedestrian access to the other dwellings is also proposed. The proposed dwellings would be in alignment with the development along Stonehenge Road.

PLAN A – Proposed site plan



6. Local Planning Policy

Wiltshire Core Strategy:

CP1 (Settlement Strategy)

CP2 (Delivery Strategy)

CP3 (Infrastructure Requirements)

CP4 (Amesbury Community Area)

CP41 (Sustainable Construction & Low Carbon Energy)

CP43 (Providing Affordable Housing)

CP50 (Biodiversity and Geodiversity)

CP57 (Ensuring High Quality Design & Space Shaping)

CP58 (Ensuring the Conservation of the Historic Environment)

CP61 (Transport & Development)

CP62 (Development Impacts on the Transport Network)

CP64 (Demand Management)

CP69 (Protection of the River Avon SAC)

Wiltshire Housing Sites Allocation Plan 2020

Wiltshire Local Transport Plan 2011-2026:

Car Parking Strategy

Government Guidance:

National Planning Policy Framework 2019 (NPPF)

Planning Policy Guidance (NPPG)

Supplementary Planning Guidance:

Durrington & Larkhill Design Statement

Creating Places Design Guide SPG (April 2006)

Achieving Sustainable Development SPG (April 2005)

7. Summary of consultation responses

Highways – No objection subject to conditions and informatives

- The site is located on the junction of Pickneys Road and Stonehenge Road, which subject to speed limits of 30 mph.
- It is proposed to provide 3 points of access, one from Pickneys Road in the existing location and allowing access to the proposed 6 vehicle parking spaces for units 1-3, two further access points are proposed from Stonehenge Road which give access to the 6 vehicle parking spaces proposed, one access is solely for the vehicle parking associated with unit 4 and the other allows access to the vehicle parking areas for units 5 and 6.
- The vehicle crossovers shown for the parking access have been indicated as having 2m x 2m pedestrian visibility splays.
- I would not wish to raise an objection to the proposed development subject to the following conditions and informative.
- CONSOLIDATED ACCESS - The development hereby permitted shall not be first occupied until the first five metres of the access, measured from the edge of the carriageway, has been consolidated and surfaced (not loose stone or gravel). The access shall be maintained as such thereafter. REASON: In the interests of highway safety.
- INFORMATIVE - The application involves the creation of new vehicular accesses. The consent hereby granted shall not be construed as authority to carry out works on the highway. The applicant is advised that a licence will be required from Wiltshire's Highway Authority before any works are carried out on any footway, footpath, carriageway, verge or other land forming part of the highway. Please contact our Vehicle Crossing Team on vehicleaccess@wiltshire.gov.uk and/or 01225 713352.

Updated comments:

- Amended plans have been received which remove a proposed access to parking for Plot 4 off Stonehenge Road.
- The vehicle parking provision has been provided from the rear and the existing access from Pickneys Way where the parking for plots 1-3 is proposed, the addition of two spaces in this area has required a turning space to be provided within the parking area, which satisfies the requirement to enter and exit the public highway in a forward gear.
- The amendments do not give rise to any further comment from highways other than to state that the revised parking arrangement would be deemed acceptable.
- The previous Conditions and Informatives would still be applicable.

Archaeology – No objection

Arboricultural Officer - No objection

- I visited site yesterday and I am not inclined to TPO any trees therefore I can't really object.
- However, I think in an idea world the applicant should work around the pollarded tree near the main road (most likely a Walnut (difficult to be sure from a distance)).

- The only other comment I would make is that the current proposal results in a significant net loss of tree cover.
- If the site was less heavily developed there would be more opportunity for some replanting.

Drainage – No comments received

Ecology – Support subject to mitigation and Appropriate Assessment

- The scheme is for demolition of the existing house and outbuildings set in mature gardens, and construction of 3 pairs of new semidetached dwellings with parking access and landscaping.
- The site is within the River Avon catchment, the River Avon is designated as a Special Area of Conservation (SAC). The site is also within the 6400m buffer for the Salisbury Plain SAC and therefore an appropriate assessment must be carried out by the local planning authority for these SAC sites – this is provided below.
- An ecological survey report is provided ‘Preliminary Ecological Appraisal, Preliminary Roost Appraisal and Bat Activity Surveys Report’ 11th July 2019, ABR Ecology Ltd.
- The desk study, surveys and assessment are considered sufficient and have identified features requiring protection and mitigation during clearance/ construction works and in the longer term. These include roosting Brown Long-eared bats, Hedgehogs and nesting birds. Fruit trees to be removed are identified as valuable and are to be replaced through proposed planting. The proposed mitigation will need to be secured by suitable condition and should be included, or reviewed by an ecologist and submitted for approval to the LPA (Local Planning Authority), within any detailed landscaping proposals.
- It is noted that whilst the full range of three dusk/ dawn surveys were carried out and identified only a single Brown Long-eared bat using the roost, there were a high number of droppings recorded in various locations within the loft and it is noted that this bat is difficult to detect in dusk surveys in particular. Therefore whilst sufficient information and mitigation is provided for the planning application decision, it is recommended that the numbers of bats and type of roost may need to be further assessed for the bat licence process.
- Any External lighting details should be approved by the local planning authority in advance of installation.
- Protected species - 3 derogation tests

The proposals within this application could potentially affect European protected species (bats). In light of ODPM Circular 06/2005 (para 116) and the Conservation of Habitats and Species Regulations 2017, the 3 “derogation” tests, as set out in Regulation 55 must be considered in reaching a recommendation.

The 3 tests are:

1. The activity ... must be for imperative reasons of overriding public interest or for public health and safety (IROPI)
2. There must be no satisfactory alternative
3. Favourable conservation status of the species must be maintained.

In this case, the LPA has sufficient information to be able to consider the 3rd test and it is considered that favourable conservation status of Brown Long-eared bats can be maintained, subject to securing the mitigation measures within Section 5 Ecological

Mitigation, Compensation and Enhancement' Strategy and Appendix 9 Mitigation and compensation strategy – bats' of the Preliminary Ecological Appraisal, Preliminary Roost Appraisal and Bat Activity Surveys Report' 11th July 2019, ABR Ecology Ltd through suitably worded condition, should the application be approved. The LPA (case officer) will also need to consider the 1st and 2nd test before determining the application.

- Appropriate assessment for Salisbury Plain SPA

This application lies within the 6.4km buffer zone of the Salisbury Plain SPA and in light of the HRA for the Wiltshire Core Strategy and the HRA for the Wiltshire Housing Site Allocations Plan it is screened into appropriate assessment due to the potential impact of recreational pressure on stone curlew in combination with other plans and projects. The qualifying features for Salisbury Plain SPA are non-breeding hen harrier and breeding populations Eurasian hobby, common quail and stone-curlew. Conservation objectives for the SPA and supplementary advice for implementing them have been published by Natural England (NE). Development coming forward under the Wiltshire Core Strategy is only anticipated to impact one of these species, the stone-curlew. This is a ground nesting species which research shows is particularly sensitive to disturbance by people and people with dogs. The unique character of the Plain attracts many visitors and a recent study has demonstrated 75% of these live within 6.4 km. Within this zone housing allocations from the Core Strategy, Housing Site Allocations Plan, Army Basing Programme and Neighbourhood Plans have the potential to lead to significant effects through their combined recreational pressure.

The Council's housing plans are mitigated through a project funded by the Community Infrastructure Levy (CIL) which records where stone-curlews breed and works with farm managers to maximise breeding success. The project was agreed with Natural England in 2012 and reviewed in 2018 and continues to provide an effective, timely and reliable means of mitigating any additional effects arising from new residential development.

It is recognised that the pressures at Salisbury Plain are changing and in the future further mitigation for this species may be necessary. Experience has demonstrated landowners are willing to take up conservation measures and that interventions can be effective at sustaining the population. Where such measures may be insufficient, future housing plans may need to refocus housing delivery. For the time being the current strategy, in combination with mitigation implemented for the Army Basing Programme, appears to be adequate to support housing numbers up until 2026 even if these are above figures in the Wiltshire Core Strategy and Housing Site Allocations Plan. The Council is therefore able to conclude beyond reasonable scientific doubt, that development proposed under this application would not lead to adverse effects on the integrity of the Salisbury Plain SPA.

- Appropriate assessment for the River Avon SAC

The River Avon SAC qualifies as a European site on account of its Annex I habitat type, which comes under the category of 'watercourses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation. It also qualifies on the basis of its internationally important populations of the following Annex II species; Desmoulin's whorl snail, sea lamprey, brook lamprey, Atlantic salmon and bullhead. Conservation objectives for the SAC and supplementary advice for implementing them have been published by Natural England (NE). These are underpinned by targets for various chemical and physical attributes of the river in line with Common Standards

Monitoring Guidance (CSMG). Of particular relevance to development is the fact that elevated levels of phosphate are preventing the conservation objectives from being achieved and causing the river to be in unfavourable condition. Developments within the river catchment have the potential to contribute to elevated phosphate through foul water discharges from sewage treatment works and package treatment plants. The implications of development related phosphate inputs have been assessed through appropriate assessments for the Wiltshire Core Strategy and Wiltshire Housing Site Allocations Plan. Since these were prepared, Wiltshire Council and other Local Authorities in the Avon catchment have entered into a Memorandum of Understanding (MoU) with Natural England, Wessex Water and the Environment Agency agreeing to deploy a range of measures to ensure that development between March 2018 and March 2025 will be phosphate neutral. The MoU focusses on residential development down to single dwellings as the impacts arise from the in-combination effects of all developments in the catchment. The parties have agreed to an Interim Delivery Plan (IDP) which aims to secure a trajectory of phosphorus reductions in line with the spatial and temporal pattern of housing delivery. Work is progressing on establishing an online trading platform for purchasing interventions to reduce phosphorus runoff. The MoU is reviewed annually to ensure the housing trajectory matches phosphorus reductions achieved on the ground and to ensure it remains fit for purpose as a result of the growing scientific evidence base.

In Wiltshire mitigation, management and monitoring identified in the IDP is being funded through the Community Infrastructure Levy (CIL) but where measures would not come under the definition of 'relevant infrastructure', the Council may pool S106 developer contributions.

At the current time, the above work enables the Council to conclude, beyond reasonable scientific doubt, that development proposed under this application would not lead to adverse effects on the integrity of the River Avon SAC.

Conditions:

- The development hereby approved shall be carried out in accordance with the proposals within the bat mitigation strategy and plans detailed within Section 5 Ecological Mitigation, Compensation and Enhancement' Strategy and Appendices 8 to 11 of the Preliminary Ecological Appraisal, Preliminary Roost Appraisal and Bat Activity Surveys Report' 11th July 2019, ABR Ecology Ltd. as already submitted with the planning application and agreed in principle with the local planning authority before determination, and as modified by a Natural England European protected species licence where required. REASON: To ensure adequate protection and mitigation for protected species through the implementation of detailed mitigation measures and to secure net biodiversity gain in accordance with NPPF, that were prepared and submitted with the application before determination.
- No additional new external artificial lighting shall be installed at the development site unless otherwise agreed in writing by the local planning authority. REASON: Many species active at night (including bats) are sensitive to light pollution. The introduction of artificial light might mean such species are disturbed and/or discouraged from using their breeding and resting places, established flyways or foraging areas. Such disturbance can constitute an offence under relevant wildlife legislation.
- River Avon SAC MoU; the residential development hereby approved shall be designed to ensure it does not exceed 110 litres per person per day water

consumption levels (which includes external water usage). Within 3 months of each phase being completed and the housing brought into use, a post construction stage certificate certifying that this standard has been achieved shall be submitted to the local planning authority for its written approval. REASON: To ensure that the development delivers betterment in terms of the level of discharge of phosphates from the sewage treatment plant into the River Avon SAC.

Informatives:

- Bat Informative - Bat roosts have been identified at the site and are likely to be affected by the development. Under the Conservation of Habitats and Species Regulations 2017, it is an offence to harm or disturb bats or damage or destroy their roosts. Planning permission for development does not provide a defence against prosecution under this legislation. The applicant is advised that a Natural England licence will be required before any work is undertaken to implement this planning permission and advice should be obtained from a professional bat ecologist before proceeding with work of this nature.
- Informative for birds - The adults, young, eggs and nests of all species of birds are protected by the Wildlife and Countryside Act 1981 (as amended) while they are breeding. The applicant is advised to check any structure or vegetation capable of supporting breeding birds and delay removing or altering such features until after young birds have fledged. Damage to extensive areas that could contain nests/breeding birds should be undertaken outside the breeding season. This season is usually taken to be the period between 1st March and 31st August but some species are known to breed outside these limits.

Natural England – No objection

- I can confirm that Natural England concurs with the conclusion stated within the appropriate assessment.
- Should the application undergo significant changes we would ask that the AA be amended to account for those changes and Natural England consulted again.

Durrington Town Council – Objection

- There were serious concerns about road safety and access onto Stonehenge Road.
- The plans represented over development of the site and there was not enough parking provision.
- The character of the street scene would be lost.
- There would be undue pressure on existing services and a question about whether the sewer infrastructure would be able to cope with the extra houses.
- There would be a large loss of wildlife in a Village setting.
- Loss of privacy for residents and the impact of reflectance of plate glass windows.

Wessex Water – No comments received

8. Publicity

The application was advertised through site notice and neighbour notification letters. Third party letters of representation have been received from the residents of Nos. 1, 3,

4, 5 and 6 Pinckneys Way and Nos. 22, 41, 44, 46 and 48 Stonehenge Road opposing the application. A summary of the objections and comments made are as follows:

- The existing property has no windows above the ground floor
- Two-storey development creates overlooking and loss of privacy to the rear windows and gardens of 4, 6 and 8 Pinckneys Way
- Reduction in the amount of daylight to south facing rear gardens of 4 and 6 Pinckneys Way
- Increase in noise, light and air pollution as a result of a high-density housing development and position of open car port and bin storage areas to rear of 4 and 6 Pinckneys Way
- Stonehenge Road is a busy road and one of the main roads through the village
- Six dwellings would generate a significant increase in traffic and parking on the road - 12-24 cars
- No provision for visitor parking
- Development close to two busy T junctions will increase the risk of accident
- Road safety issue due to visibility at Stonehenge Road/Pinckneys Way T junction and increased in traffic due to army rebasing developments and extended school
- The access closest to the Pinckneys Road/Stonehenge Road junction is dangerous
- Visibility for traffic at the junction onto Stonehenge Road will be poor especially with vehicles parked to the front of proposed properties
- 6 families and their visitors coming and going will cause extra traffic and noise problems
- The access for the 6-car garage is between two T junctions (Stonehenge & Pinckneys) increases the volume of cars negotiating a blind junction (blocked by the beech hedge)
- Impact of too many vehicles parked on this road was evident on previous firework nights when it had to be managed by the town council when the road became difficult to access
- Although not a regular bus route anymore, buses and coaches regularly use the road to get to the local schools and leisure centre
- Access to 3 Pinckneys Way opposite the existing access to No. 2 is already difficult due to the speed, visibility and parking outside number 2
- Increase to 6 houses will make life difficult for people in the surrounding properties with additional parking on the road in Pinckneys Way and Stonehenge Road
- Inconvenience to existing residents
- We are already suffering from higher volumes of traffic
- Going by Amesbury's experience on new estates children grow up and get cars which are kept on the streets as there is no room on the drives
- Separating garages from houses with a stand-alone garage block is out of keeping with the existing bungalows with adjoining garages and creates an environment which is a security issue
- Easy and unobserved access to the rear gardens of Nos 4 and 6 Pinckneys Way increases the threat of burglary
- Existing properties on Stonehenge Road consist mainly of detached bungalows and a small number of well-spaced semi-detached houses

- All surrounding properties along Pinckneys Way and Downland Way are bungalows
- It is only at the bottom of Pinckneys Way at the High Street end that there are houses
- The appearance and layout is not in keeping with the road and the village as a whole
- There is a dearth of bungalows in the village
- The plot is tiny and right on the corner of Stonehenge Road, the busiest road in the village
- Out of keeping with the architecture of the adjacent properties
- Development would be overdevelopment and totally out of keeping in style and scale with the street view and surrounding area
- Development is designed to maximise profit rather than the need for sustainable housing
- Existing garden and trees provide significant wildlife benefit particularly for local bat population observed living in the existing property
- Increased density of the development and the replacement of large trees with smaller ones and time taken for them to reach maturity will limit the ability of the site to sustain the existing wildlife
- How are the meadow lawns and wildlife features for bats, hedgehogs and sparrow houses, going to be maintained and enforced, after development?

A letter of representation has been received from Salisbury and Wilton Swifts setting out recommendations for the provision of swift bricks in the proposed dwellings.

9. Planning Considerations

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

9.1 Principle of Development:

As is identified above, the site is situated in the existing built up area of Durrington, which is defined in WCS policy CP4 (Amesbury Community Area) as being part of the Market Town of Amesbury. WCS policy CP1 (Settlement Strategy) confirms that such locations have the ability to support sustainable patterns of living in Wiltshire through their current levels of facilities, services and employment opportunities. It also confirms that such locations have the potential for significant development in order to help sustain and where necessary enhance their services and facilities and promote better levels of self-containment and viable sustainable communities. The more recently adopted WHSAP reaffirms the Core Policy position. There is no adopted or emerging Neighbourhood Plan for Durrington which would set more localised policy considerations.

The NPPF requires each Local Planning Authority to identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements with an additional buffer of 5% to ensure choice and competition in the market for land (paragraph 73). The implications being, if this cannot be demonstrated, then the policies in the development plan relevant to the supply of housing cannot be considered to be up to date. In these circumstances, unless any adverse impacts would significantly and demonstrably outweigh the benefits, proposals

should be considered favourably for permission (NPPF paragraph 11, subject to the limitations in Footnote 6).

The LPA confirms that at the current time the housing land supply figure is 4.62 years, and therefore a 5 YHLS cannot be demonstrated. However, whilst the housing policies are to be considered out of date, the development plan as a whole is not and all policies of the plan are still capable of carrying weight. The 5 YHLS position, and relatively modest shortfall, does not dictate that all applications for housing should be allowed and LPA's still must assess each case on its own merits and come to a balanced decision. In this case, the NPPF suggests that the proposal should be considered favourably for development unless adverse impacts would significantly and demonstrably outweigh the benefit to housing supply.

Therefore, this proposal involving the demolition of the existing dwelling redevelopment of this site for 6 residential dwellings is considered to be acceptable in principle. However, the acceptability of the proposal is subject to the specific detail in terms of such matters as the design and impact on the character of the area, residential amenities and highway and ecology considerations. These are therefore addressed in detail below.

9.2 Character of the Area:

The site is situated on a corner plot at the junction of Pinckneys Way with Stonehenge Road. The existing dwelling is a large detached bungalow which is located off Pinckneys Way and has no frontage onto Stonehenge Road. Stonehenge Road is characterised by linear development along each side, comprising a mix of detached bungalows and dormer bungalows and semi-detached and detached two-storey houses, and an example of two-storey semi-detached houses is positioned immediately opposite the site. Pinckneys Way in contrast is laid out as a residential estate where detached properties follow the curved lines of the estate roads. The surrounding development in Pinckneys Way is of bungalows and chalet bungalow which predominantly have shallow pitched roofs although a number have dormer window additions. The character of the existing dwelling at No. 2 and Nos. 4 and 6 Pinckneys Way is markedly different to the prevailing character, with No. 2 occupying a larger plot and Nos. 4 and 6 having steeper pitched roofs, No. 4 has rooms in the roof with a window in its north facing gable end. The character of development in Pinckneys way also changes appreciably further to the north where the development transitions to 2-storey houses in semi-detached and terraced formation. Plot sizes and widths vary considerably and there is no uniformity in the design, style and materials in the locality other than that it is notable that bungalows outnumber full two-storey dwellings in the immediately adjacent development to the west, north and east of the application site.



The bungalow on the application site is currently a bit of an anomaly in that it has such a spacious plot compared with those that surround it and it has no relationship with the street scene in Stonehenge Road. Neither does it have a strong frontage in the context of Pinckneys Way.

The scheme will result in a total of six dwellings, comprising three pairs of semi-detached two-storey properties providing 5 x 3-bedroom and 1 x 2-bedroom accommodation. Whilst the address of the existing dwelling and its vehicular access is in Pinckneys Way, as the layout of the existing dwelling in the plot does not have strong frontage it is considered appropriate that any redevelopment scheme should be visually well related to the development in Stonehenge Road. It is acknowledged that an increase in plot density from 1 dwelling to 6 dwellings is numerically a significant development, however the footprint of the 3 pairs of semi-detached properties would not be dissimilar to the footprint and spacing which is evident in the aerial image of the 3 detached bungalows in Pinckneys Way to the rear. In terms of footprint, the density of the built form would be comparable to the prevailing density, it is therefore the internal sub-division of each building and external sub-division of the outdoor space to provide 6 dwellings rather than 3 dwellings which is of concern in terms of the capacity of the site rather than the built form itself. It is therefore considered that its development with additional dwellings is acceptable and can be achieved without a significant or detrimental impact on the character of the area.

At the rear of the proposed dwellings, the site would be subdivided into 6 relatively narrow gardens, with units 4-6 having longer gardens due to the car parking area to the rear of units 1-3. At the front of the dwellings the site would be subdivided so that Units 1 – 4 have individual front gardens and Units 5-6 would have a shared area provided two car parking spaces to the front of each. which will be narrower than most of the existing plots in the existing row of development. The rear gardens to units 1-3 are less generous than is typical of the housing in this location, however would still provide sufficient amenity provision for the type of dwellings that are proposed. The level of

subdivision would be less immediately apparent from the front street scene than at the rear given that much of the front hedge screening is to be retained and only one vehicular access would be seen from Stonehenge Road. The appearance within the streetscene would not be so dissimilar than it would for 3 detached dwellings that the number of dwellings to be provided would present as a discordant feature or overdevelopment in the streetscene.

The type of accommodation proposed to be provided is considered to be an appropriate development which reflects the mix already prevalent within the streetscene on Stonehenge Road and would not be at odds with the scale and occupancy of the mix of housing in this area. Presenting a side elevation rather than frontage to Pinckneys Way, as side road, does not cause visual harm to the character of the area. Overall, whilst noting the strength of third party concern regarding the increase in the number of dwellings, it is considered that the level of development proposed on this site can be accommodated without detriment to the prevalent character of the area and will accord with the grain and form of development found elsewhere in this area. The level and type of development proposed therefore represents an effective use of land and is considered appropriate for this site.

9.3 Design:

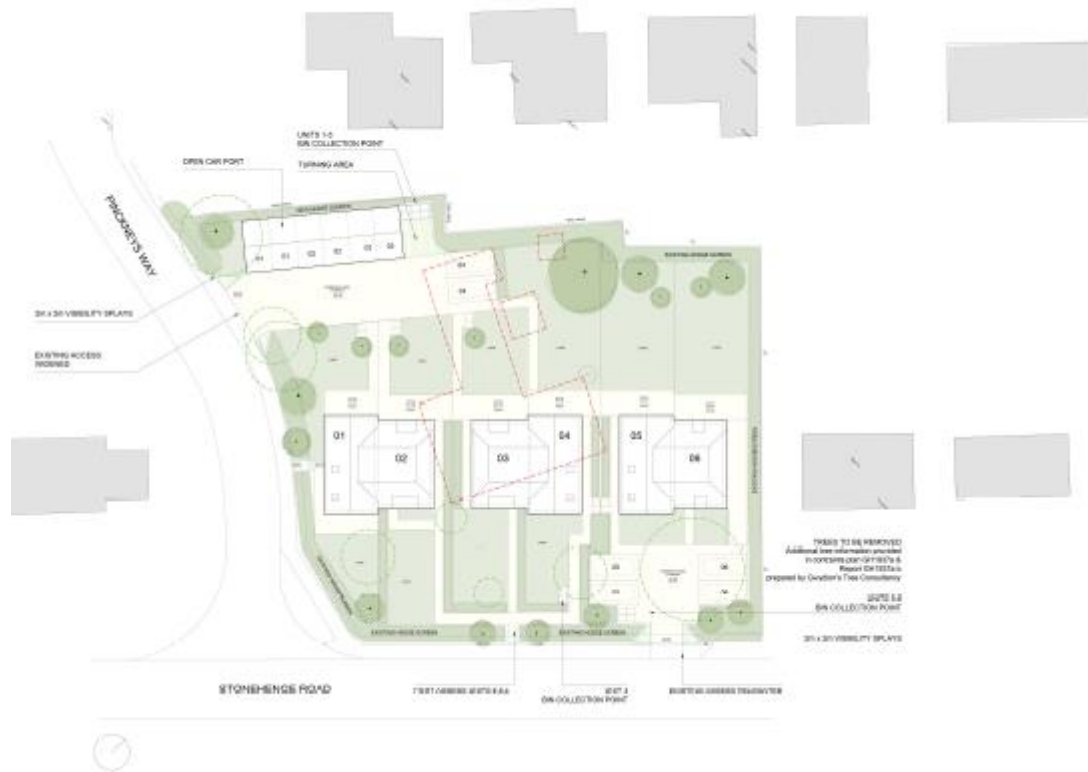
The proposed dwellings would be of two storeys and finished with render (gf) and horizontal cladding (ff) under a slate roof. Each pair of semi-detached properties are designed to appear as a single dwelling. The roof of each pair has the ridge line broken so that one half presents with a front gable and one half presents the roof slope, this section also being set down in height from the other. The eaves are at 1.5 storey height so that the first floor windows comprise either dormer windows or windows in the gable ends. As a result, the design presents a more interesting, detailed frontage than would be the case with a single ridge line parallel to the road. The orientation of the proposed dwellings to front onto Stonehenge Road is in officer's opinion an improvement to the existing bungalow which has little relationship to the main route and its concealed side garden, which despite its appeal due to the mature vegetation, is not characteristic of the more urban environment in which it is located. The layout, detailed architectural features and materials are all considered to be positive aspects of the scheme.

The parking provision has been located primarily to the rear of the dwellings and the car parking area incorporates a covered parking bay with pitched slate roof for 6 of the car parking spaces (Units 1-3), with two uncovered spaces for Unit 4. In terms of design, the positioning of the car parking to the rear is also considered as a positive design feature which prevents the site frontage being dominated by parked cars. The relationship of the car parking area in relation to neighbouring properties is considered elsewhere in the report.

Overall it is considered that the scheme, which has included some negotiations to the design and layout during the consideration of the application and representations, would achieve a good standard of design which would complement and improve the visual quality of development in the locality.

9.4 Residential Amenity:

Any development proposing this form of redevelopment to replace a single dwelling with a greater number of dwellings needs to have due regard to the amenities of both the future occupiers and existing neighbouring properties on the surrounding plots. This application has generated objections from neighbouring properties, including those that share a boundary with the site. The proposed site plan is repeated below to show the relationship with existing dwellings. It should be noted that the plan is not orientated to the north, the north marker is shown in the bottom left hand corner.



Having regard to the potential for overlooking of existing residents located to the north-west of the site, Nos. 4, 6 and 8 Pinckneys Way, the development has been designed to limit such opportunity by the separation distance from rear windows to the rear gardens and windows of these dwellings and by keeping the cill height of first floor windows to a minimum so that views from first floor windows would be interrupted by boundary fencing. As such it is considered that any potential for overlooking is minimal and whilst noting the strong objections from occupiers of these properties, a reason for refusal on the grounds of loss of privacy is not considered to be justifiable. Despite the orientation of the development to the south-east of these properties, the position of each dwelling is also considered to minimise any potential for overshadowing or dominance between the new properties and the existing properties to the north due to the separation distance. The relationship between the rear of the existing properties in Pinckneys Way and the proposed dwellings is considered appropriate in the context of a built-up area. Whilst acknowledging that the proposed layout is different to the existing relationship with the dwelling sited at 2 Pinckneys Way it is not considered that harmful impacts would be introduced.

The proposed unit No. 6 would share a side boundary to the east with 41 Stonehenge Road, a single storey property with an attached flat roof garage positioned closest to the boundary. The principal elevation of the bungalow faces Stonehenge Road and does not overlook the site. The separation distance between unit 6 and 41 Stonehenge Road is consistent with the density of development and the footprint of unit 6 is aligned with the existing bungalow and is not considered to introduce any demonstrable impact in terms of privacy, outlook or light enjoyed by this property.

Neighbouring properties to the south-east and south-west of the site are separated from the proposed development by either the main or side road. Given this level of separation across a public highway it is considered that the potential for demonstrable

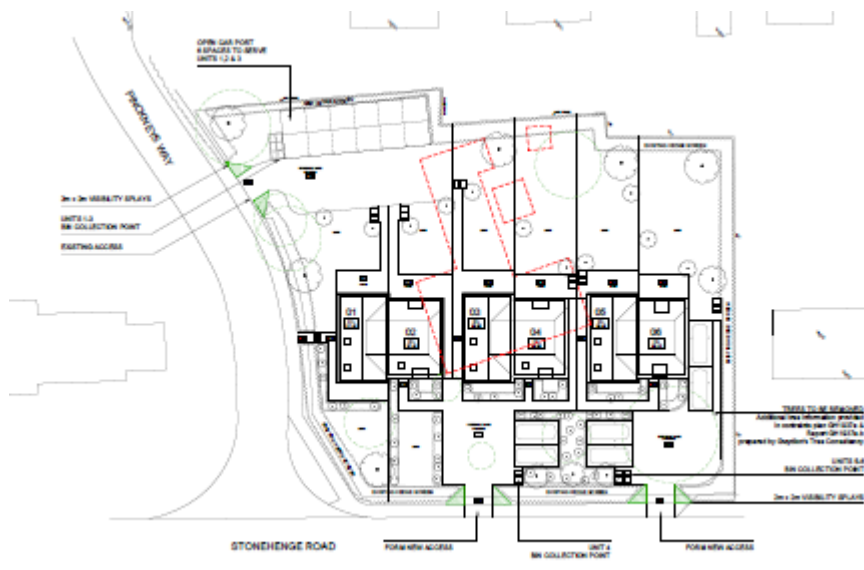
harm to the amenities of neighbours to the south-east and south-west is minimal. The position of the access serving the existing dwelling in relation to access serving No. 3 Pinckneys Way is unchanged. The increase in the number of dwellings this access would not impact on residential amenity. Highway safety implications are considered elsewhere in the report.

Objections have also been raised regarding the position of car parking and the overshadowing from the roof on the car port structure. In consideration of the position of the car parking area, this is located in the same position as the parking to the existing dwelling, which given its size could be expected to accommodate occupiers with more than one vehicle. With the car parking area serving 4 dwellings there is potential for some increase in vehicle movements. However as this proposal does not introduce car movements in this area, the relationship with neighbouring occupiers is essentially unchanged since the potential for disturbance from vehicle movements which are not within the control of the occupiers of the neighbouring properties already exists. It is not considered that it would be possible to demonstrate that any increase in vehicle movement would be unduly harmful to residential amenity and a reason for refusal could not be sustained. Consideration has also been given to the provision of the roof structure over the car parking spaces and whether its deletion from the scheme would be necessary. It is considered to be more beneficial to retain the structure than to remove it since it could potentially help to limit noise and fuel emissions from cars manoeuvring in this area. The ridge of the structure is not sufficiently high to anticipate significantly greater overshadowing than the height of a 2 m boundary fence.

Overall, whilst acknowledging that the proposal has generated strong objections, it is concluded that it would not materially harm the amenity of neighbouring occupiers.

9.5 Highway Implications:

Significant local concern has also been raised about the level of parking; issues relating to access off Stonehenge Road; and the proposed location of the additional access in relation to the junction of Stonehenge Road and Pinckneys Way. However, the Highways Authority considered the original proposal which showed two accesses from Stonehenge Road and advised that the creation of the proposed accesses and proximity to the junction is not likely to result in an unacceptable impact for highway safety, despite the proximity to the junction, there was considered to be good visibility for and of vehicles emerging from the proposed access.



The highways comments were based on the proposed site plan shown immediately above, which has been superseded by the revised site layout which now includes only one new access with 2 additional spaces provided off the rear car parking area following negotiations to address local concern regarding the access closest to Pinckneys Way. The highways officer considered that there is adequate onsite parking and turning provision to serve the development and no concerns were expressed regarding the use of the existing access for more than a single dwelling.

The highways officer has confirmed that the access, parking and turning arrangement in the amended plans would not give rise to any further comment from highways other than to state that the revised parking arrangement would be deemed acceptable, subject to the previous Conditions and Informatives. On this basis, it is not considered that a reason for refusal on highway safety grounds can be sustained.

9.6 Ecology

Protected Species:

The proposal could potentially affect European protected species (bats) since it results in the demolition of existing buildings which have been surveyed for the presence of bats. In light of ODPM Circular 06/2005 (para 116) and the Conservation of Habitats and Species Regulations 2017, the 3 “derogation” tests, as set out in Regulation 55 must be considered in reaching a recommendation. The 3 tests are set out below:

1. The activity must be for imperative reasons of overriding public interest or for public health and safety (IROPI):

The proposal is for new housing development comprising 5 additional dwellings in a suitable location. The proposal is considered to meet this test.

2. There must be no satisfactory alternative:

The proposal cannot be achieved without the demolition of the existing dwellings, the proposal is considered to meet this test.

3. Favourable conservation status of the species must be maintained.

The LPA has sufficient information to be able to consider that favourable conservation status of Brown Long-eared bats can be maintained, subject to securing the mitigation measures within Section 5 Ecological Mitigation, Compensation and Enhancement Strategy and Appendix 9 Mitigation and compensation strategy – bats of the Preliminary Ecological Appraisal, Preliminary Roost Appraisal and Bat Activity Surveys Report 11th July 2019, ABR Ecology Ltd through suitably worded condition, should the application be approved.

River Avon SAC:

This development falls within the catchment of the River Avon SAC and has potential to cause adverse effects alone or in combination with other developments through discharge of phosphorus in wastewater. The Council has agreed through a Memorandum of Understanding with Natural England and others that measures will be put in place to ensure all developments permitted between March 2018 and March 2026 are phosphorus neutral in perpetuity. At the time of the original consultation, an interim strategy was in place to enable a favourable Appropriate Assessment which was agreed by Natural England. However, prior to determination of the application Natural England advised the LPA that the interim measures were effective until 31st March 2020 and permissions for new dwellings in the SAC catchment could not be issued. Following further work to agree adequate measures, the Council is now currently implementing a phosphorous mitigation strategy to offset all planned residential development, both

sewered and non sewered, permitted during this period. The strategy also covers non-residential development with the following exceptions:

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

Following the cabinet's resolution on 5th January 2021, which secured a funding mechanism and strategic approach to mitigation, the Council has favourably concluded a generic appropriate assessment under the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019. This was endorsed by Natural England on 7 January 2021. As this application falls within the scope of the mitigation strategy and generic appropriate assessment, it can now be concluded that it will not lead to adverse impacts alone and in-combination with other plans and projects on the River Avon SAC.

Salisbury Plain SPA:

This application lies within the 6.4km buffer zone of the Salisbury Plain SPA and in light of the HRA for the Wiltshire Core Strategy and the HRA for the Wiltshire Housing Site Allocations Plan it is screened into appropriate assessment due to the potential impact of recreational pressure on stone curlew in combination with other plans and projects. The Council's ecologist has advised that housing plans are mitigated through a project funded by the Community Infrastructure Levy (CIL) which records where stone-curlews breed and works with farm managers to maximise breeding success. The project was agreed with Natural England in 2012 and reviewed in 2018, this continues to provide an effective, timely and reliable means of mitigating any additional effects arising from new residential development. The Council is therefore able to conclude beyond reasonable scientific doubt, that development proposed under this application would not lead to adverse effects on the integrity of the Salisbury Plain SPA.

9.7 Trees:

The existing dwelling has a large curtilage which includes a number of trees. The proposed development would not allow for the retention of these trees and accordingly consultation has been undertaken with the Council's Arboricultural Officer. Following a visit to the site, it is noted that the proposal would result in a significant net loss of tree cover and that if the site was less developed, there would be more opportunity for some replanting and retention of the pollarded tree near the main road (most likely a Walnut). However it is advised that none of the trees would be made subject to a TPO in order to prevent their loss. As such no objection has been raised and refusal of the proposal on the grounds that it would lead to the loss of trees would not be warranted. As a result of changes to the access, more of the front boundary hedging can be retained.

9.8 S106/CIL:

As the proposals involve the net gain of five dwellings at the site and having regard to Government Guidance where the threshold for securing affordable housing and new infrastructure tariffs from development has increased to 10 units or more or a gross floor area of 1000 square metres, it is not considered that it would be reasonable or justified to secure any contributions towards off site Affordable Housing provision or public open space improvements in the locality from this proposal. This recommendation is not therefore subject to a legal agreement or Section 106. The development will be subject to the Council's Community Infrastructure Levy which is administered outside of the planning application process.

10. Conclusion (The Planning Balance)

The proposal would deliver 5 new dwellings in a sustainable location and result in an effective and efficient use of land. Whilst noting the significant local opposition to the density of development on the plot and two-storey design, the site is located in a built-up area of the settlement which is urban in character and there is a precedent for two-storey semi-detached dwellings. It is considered that the proposed layout would, in planning terms, maintain acceptable standard of amenity in terms of the relationship with existing properties and create acceptable living conditions for future occupiers. The local concern with the means of access, additional traffic and parking is also noted, however the highways authority has raised no objection on highway safety grounds to the position of the new access or intensification of the use of the existing access and the number of new vehicular access points on Stonehenge Road has been reduced during negotiations, allowing for the retention of more of the existing boundary screening. The Council's ecologist and arboricultural officer are satisfied with the proposed mitigation measures and loss of trees raising no requirement for protection by TPO. Taking into account the detailed assessment of the proposal and revisions to the layout during the determination of the application and the provisions of the NPPF paragraph 11, it is considered that the development will not result in harm to the site or its surroundings to significantly and demonstrably outweigh the benefits to housing supply. As such the development is recommended for permission accordingly.

RECOMMENDATION

Approval subject to conditions.

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

REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2) The development shall only be undertaken in accordance with the following approved plans:

Proposed Site Plan PL02 REV C
Proposed Floor Plans PL03 REV A
Proposed Elevations (1-2) PL04 REV A
Proposed Elevations (3-4) PL05 REV A
Proposed Elevations (5-6) PL06 REV A
Existing and Proposed Streetscene PL07 REV A
Streetscene and Cross Section PL08

REASON: For the avoidance of doubt

- 3) The development hereby permitted shall not be first occupied until the first five metres of the access, measured from the edge of the carriageway, has been consolidated and surfaced (not loose stone or gravel). The access shall be maintained as such thereafter.

REASON: In the interests of highway safety.

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

REASON: In the interests of highway safety.

- 5) A plan indicating the positions, design, materials and type of boundary treatment to be provided shall be submitted to and approved in writing by the Local Planning Authority and development carried out in accordance with the approved details before the first occupation of the dwellings hereby approved.

REASON: To ensure that the works undertaken maintain the appearance of the site and enhance the character of the development in the interest of visual amenity and character of the local area

- 6) The development hereby approved shall be carried out in accordance with the proposals within the bat mitigation strategy and plans detailed within Section 5 'Ecological Mitigation, Compensation and Enhancement' Strategy and Appendices 8 to 11 of the Preliminary Ecological Appraisal, Preliminary Roost Appraisal and Bat Activity Surveys Report' 11th July 2019, ABR Ecology Ltd. as already submitted with the planning application and agreed in principle with the local planning authority before determination, and as modified by a Natural England European protected species licence where required.

REASON: To ensure adequate protection and mitigation for protected species through the implementation of detailed mitigation measures and to secure net biodiversity gain in accordance with NPPF, that were prepared and submitted with the application before determination.

- 7) No additional new external artificial lighting shall be installed at the development site unless otherwise agreed in writing by the local planning authority.

REASON: Many species active at night (including bats) are sensitive to light pollution. The introduction of artificial light might mean such species are disturbed and/or discouraged from using their breeding and resting places, established flyways or foraging areas. Such disturbance can constitute an offence under relevant wildlife legislation.

- 8) The dwellings hereby approved shall not be occupied until the Building Regulations Optional requirement of maximum water use of 110 litres per day has been complied with.

REASON: To avoid any adverse effects upon the integrity of the River Avon Special Area of Conservation (SAC).

INFORMATIVES

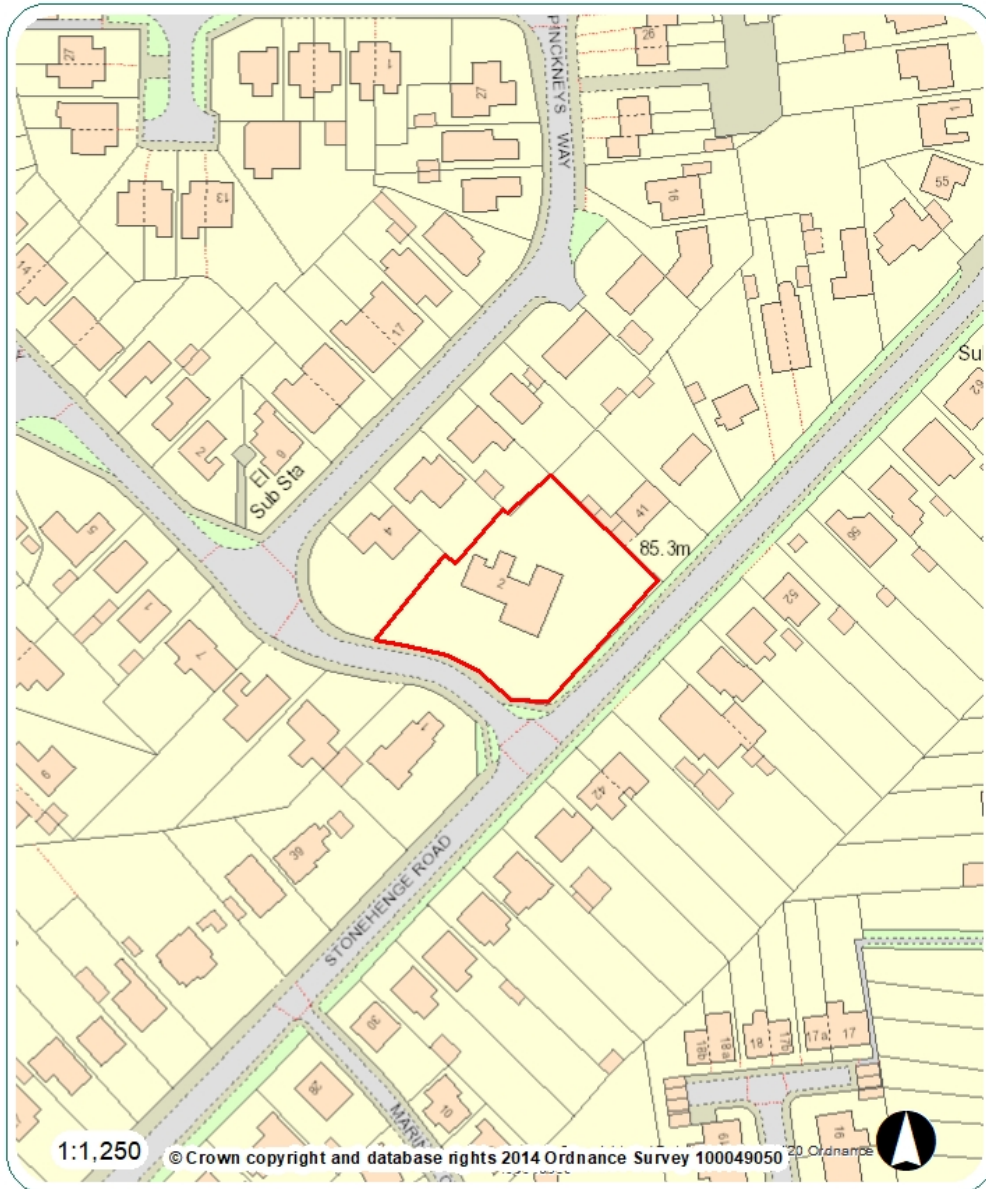
- The application involves the creation of new vehicular accesses. The consent hereby granted shall not be construed as authority to carry out works on the highway. The applicant is advised that a licence will be required from Wiltshire's Highway Authority before any works are carried out on any footway, footpath, carriageway, verge or other land forming part of the highway. Please contact our Vehicle Crossing Team on vehicleaccess@wiltshire.gov.uk and/or 01225 713352.
- Bat roosts have been identified at the site and are likely to be affected by the development. Under the Conservation of Habitats and Species Regulations 2017, it is an offence to harm or disturb bats or damage or destroy their roosts. Planning permission for development does not provide a defence against prosecution under this legislation. The applicant is advised that a Natural England licence will be

required before any work is undertaken to implement this planning permission and advice should be obtained from a professional bat ecologist before proceeding with work of this nature.

- The adults, young, eggs and nests of all species of birds are protected by the Wildlife and Countryside Act 1981 (as amended) while they are breeding. The applicant is advised to check any structure or vegetation capable of supporting breeding birds and delay removing or altering such features until after young birds have fledged. Damage to extensive areas that could contain nests/breeding birds should be undertaken outside the breeding season. This season is usually taken to be the period between 1st March and 31st August but some species are known to breed outside these limits.
- Any alterations to the approved plans, brought about by compliance with Building Regulations or any other reason must first be agreed in writing with the Local Planning Authority before commencement of work.
- The applicant is advised that the development hereby approved may represent chargeable development under the Community Infrastructure Levy Regulations 2010 (as amended) and Wiltshire Council's CIL Charging Schedule. If the development is determined to be liable for CIL, a Liability Notice will be issued notifying you of the amount of CIL payment due. If an Additional Information Form has not already been submitted, please submit it now so that we can determine the CIL liability. In addition, you may be able to claim exemption or relief, in which case, please submit the relevant form so that we can determine your eligibility. The CIL Commencement Notice and Assumption of Liability must be submitted to Wiltshire Council prior to commencement of development. Should development commence prior to the CIL Liability Notice being issued by the local planning authority, any CIL exemption or relief will not apply and full payment will be required in full and with immediate effect. Should you require further information or to download the CIL forms please refer to the Council's Website
www.wiltshire.gov.uk/planninganddevelopment/planningpolicy/communityinfrastructurelevy.



This page is intentionally left blank



This page is intentionally left blank

REPORT OUTLINE FOR AREA PLANNING COMMITTEES

Report No.

Date of Meeting	4 February 2020
Application Number	20/07918/FUL
Site Address	Cobbins Laverstock Park Laverstock SP1 1QJ
Proposal	Demolition of existing car port and garage and the erection of a double storey side extension and erection of double garage with storage area above. Replacement of windows and doors and associated improvement works.
Applicant	Mr Trevett
Town/Parish Council	LAVERSTOCK
Electoral Division	Laverstock, Ford and Old Sarum – Cllr Ian McLennan
Grid Ref	415883 130648
Type of application	Full Planning
Case Officer	Emily Jones

Reason for the application being considered by Committee

Cllr McLennan has called the application into committee on the grounds that the proposals will impact on Laverstock Park and Laverstock Park West and on Lark House.

1. Purpose of Report

The purpose of the report is to assess the merits of the proposal against the policies of the development plan and other material considerations and to consider the recommendation that the application be approved.

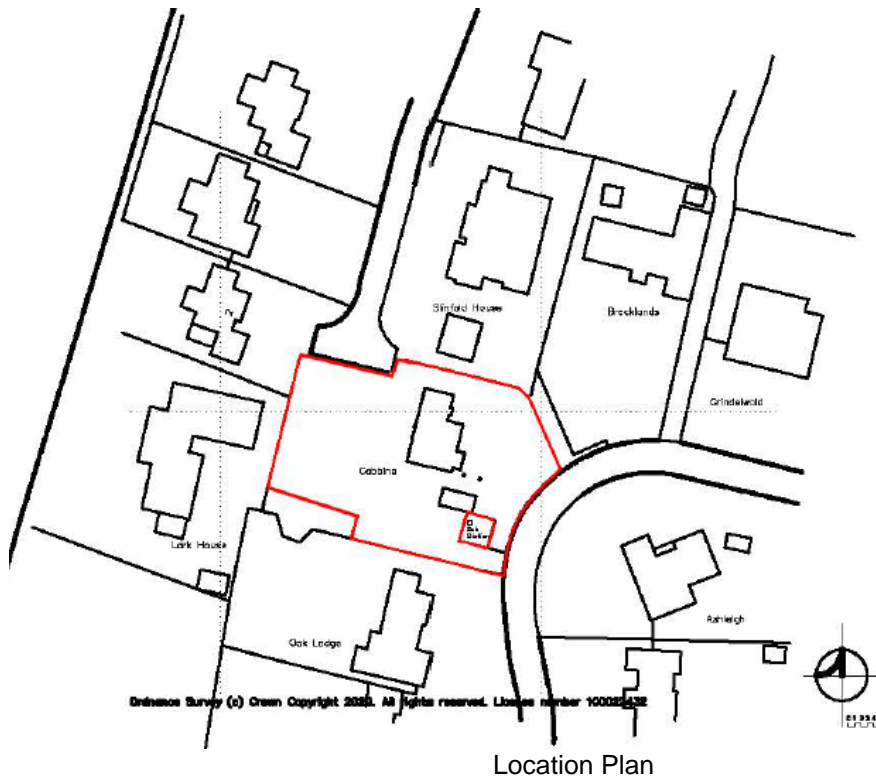
2. Report Summary

The main issues which are considered to be material in the determination of this application are listed below:

The application has resulted in an objection from Laverstock and Ford Parish Council due to the effect of the proposed development on the appearance of the area; the quality of the design; and the significant overbearing impact and loss of outlook. There have also been 11 third-party representations objecting to the scheme.

3. Site Description

The application site is a detached, two-storey dwellinghouse accessed from a shared driveway off Laverstock Park. The site is situated within an established residential area in Laverstock, designated a small village under CP1, 2, and 20 of the WCS.



4. Planning History

There is no recent planning history relevant to the site.

5. The Proposal

The application proposed to demolish the existing car port and garage and erect a two storey side and rear extension; erect a two storey rear extension; erect a detached double garage; replace the windows and doors; and associated works.

6. Local Planning Policy

Wiltshire Core Strategy

Core Policy 1: Settlement strategy

Core Policy 2: Delivery strategy

Core Policy 20: Settlement strategy: Salisbury Community Area

Core Policy 57: Ensuring high quality design and place shaping

Core Policy 61: Transport and new development

Core Policy 64: Demand management

Saved policies H31 and C24 – extensions in the countryside

Government Guidance:

National Planning Policy Framework 2019 (NPPF)

Planning Policy Guidance (NPPG)

7. Summary of consultation responses

Laverstock and Ford Parish Council - Object for the following reasons:

1. The effect of the proposed development on the appearance of the area.
2. The quality of the design.
3. The significant overbearing impact and loss of outlook.

8. Publicity

The application was advertised via neighbour notification letters dated 25 September 2020. The consultation period expired on 12 January 2021.

A total of 16 third-party representations were received from neighbouring occupants/owners regards the original plans (some duplicates or from same family members), and following the amended plans, 8 representations received (some duplicates or from same family members). Their responses are summarised as follows:

- Bulk and scale of extension - impact of raising of the ridge of dwelling;
- Design out of character;
- Overlooking, particularly from terrace;
- Siting, height, and bulk of garage: loss of outlook and overshadowing;
- Loss of green space;
- Flood risk;
- Impact on shared drive during construction;
- Structural integrity of retaining wall;
- Garage contrary to policy H31; and
- Contrary to presumption against development in the countryside.

9. Planning Considerations

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

9.1 Principle of development

The site is located within the small village of Laverstock where development is considered to be acceptable in principle under CP1, CP2, and CP20 of the WCS. However, as Laverstock does not have a settlement boundary, saved policies H31 and C24 also technically apply.

9.2 Scale, siting, and design

Saved policies H31 and C24 relate to extensions and additions to dwellings (including outbuildings), needing to be sympathetic in scale and character with the existing buildings and surroundings, and subservient in size to the existing dwelling and plot, and would not substantially alter the character of the dwelling and uses complementary materials.

Core Policy 57 states a high standard of design is required in all new development, including extensions, alterations, and changes of use to existing buildings. Development is expected to create a strong sense of place through drawing on the local context and being complimentary to the locality.

The proposed two-storey extension wraps round the rear and side of the dwelling and there is an additional infill two-storey element within the existing L-shaped rear elevation. The proposed extension would increase the width of the dwelling by 4.5m. A new pitched roof would be formed across the dwelling to incorporate the extensions, raising the ridge height of the roof by approximately 50cm.

Cobbins is set at a lower land level than Laverstock Park, with the first floor being approximately at street level. There is a 1.5m high stone wall, set back from the street, but enclosing the rear garden of Cobbins. There is no screening of the first floor of Cobbins from the street.

The proposed extension would therefore be visible from Laverstock Park. Whilst the extension increases the bulk of the dwelling, the resultant property would still be proportionate to its plot size and would not appear cramped relative to the prevailing pattern of development in Laverstock Park. The proposal would result in the limited loss of private green space however this would not have an impact on the character of the wider area which would still be retained as large detached houses in sizeable plots.

Initially it was proposed to use new slates for the roof and render and clad the main dwelling. However, following concerns that this would be significantly incongruous with the character of the street scene, which is brick and clay tiles, amended plans have been received showing that the existing materials will be retained and matched for the new development. As such, it is considered that the proposed extension harmonises with the main dwelling and wider street scene. The proposal is therefore not considered to have a detrimental impact on the visual amenity of the area.

A detached, double garage is proposed in the south-west corner of the plot. Given the drop in land level from the street, the significant setback of approximately 30m, and the use of materials to match the main dwelling, it is not considered that it would harm the wider character of the area.

It is therefore officers view that the requirements of C24, H31, and CP57 are met.

9.3 Impact on residential amenity

Core Policy 57 requires that development should ensure the impact on the amenities of existing occupants is acceptable, and ensuring that appropriate levels of amenity are available within the development itself, and the NPPF's Core Planning Principle's (paragraph 17) includes that planning should "always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings".

The bulk of the two-storey extension is to the south. However, it would still be set back from the shared driveway by approximately 6m and as such is not considered to be unduly overbearing on Oak Lodge. The two-storey infill extension to the north is sited closer to the boundary with Slinfold House and the slight increase in the ridge height of the roof would not be unduly overbearing on the neighbouring property.

Given its proximity and separation distances from adjacent properties, it is not considered that the extension would result in overshadowing.

In terms of overlooking, there is currently a large window at first floor located on the south side elevation, facing the shared driveway the side of Oak Lodge. This would be replaced with two single-pane narrow windows on the extension. Whilst these windows would be approximately 4.5m closer to the south, there would be an overall reduction in the amount of glazing and on balance it is not considered that these windows would result in any additional harm to the amenity of the occupants of Oak Lodge from loss of privacy.

A small window is shown on the north side elevation of the proposed extension; a reduction from the previously proposed two windows on this elevation. The remaining window would be approximately 15m from the boundary of Slinfold House and predominantly faces the bottom corner of their rear garden and the turning circle of Laverstock Park West. In this circumstance, it is not considered that this would result in significant overlooking to warrant refusal of the scheme on this ground.

A terrace is proposed on the rear of dwelling on top of the rear extension. This faces out towards Laverstock Park, with views to the south obscured by the two-storey extension. The terrace would face the front elevation and driveway of Slinfold House, which is not a wholly private space. The terrace will give rise to an increase in the perception of overlooking for Slinfold House although actual loss of privacy would be minimal. Therefore, a reason for refusal on this ground would be difficult to sustain, although a condition requiring a privacy concerns would alleviate concerns.

The proposed double garage is situated in the south-west corner of the plot, approximately 1.5m from the boundary with Lark House which is set at a slightly lower land level. Some of the existing planting in this area would be lost, including two mature conifer trees. Originally it was proposed that the garage would be 1½ storeys to provide a storage area above the garage. This would have resulted in a ridge height of 6.1m and two dormer windows in the east elevation. Following concerns regarding the height of

the garage, amended plans have been received that remove the dormer windows, reduce the pitch of the roof, and reduce the ridge height by approximately 1m.

The roof is pitched away from the Lark House thereby reducing the overbearing impact on the adjacent property, despite the change in land level. This, in addition to a 5m building to building separation distance between the garage and Lark House, it is therefore considered that the proposal would not be unduly overbearing to warrant a refusal.

The garage is positioned to the east of Lark House and replaces the existing planting in this location. As such it would not result in a significant increase in overshadowing of the front of the Lark House or loss of outlook to justify a refusal of the scheme on this ground.

9.4 Highways/Parking

Criteria (ix) of Core Policy 57 aims to ensure that the public realm, including new roads and other rights of way, are designed to create places of character which are legible, safe, and accessible. Core Policy 64 requires development to meet the minimum parking standards.

The proposed extension would result in a four-bedroom dwelling thereby requiring a minimum of three parking spaces. The submitted plans show that this requirement is exceeded thereby satisfying the relevant policies.

9.5 Ecology

The application is accompanied by a bat survey that concludes there are no bats utilising Cobbins and therefore the proposed works are not considered to give rise to harm to protected species. The report does suggest enhancements and it is considered that it would be appropriate to condition their implementation to improve biodiversity.

9.6 Other matters

In terms of flooding, the site is not located in floodzone. The provision of a suitable surface water drainage system would be a matter for building regulations.

Concerns regarding the structural integrity of a neighbour's retaining wall are not a material planning consideration.

10. Conclusion (The Planning Balance)

The amended proposal is considered to be of an acceptable scale, mass, and bulk that is not detrimental to the character of the area, is not unduly harmful to the amenities of neighbouring properties, and provides sufficient off-street parking provision. The proposal therefore confirms to the objectives of H31, C24, CP57 and CP64 of the aims

of the NPPF and the recommendation is that planning permission should be granted.

RECOMMENDATION

Approve, 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.

REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2) The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

Location Plan – received 15 September 2020

Block Plan – received 15 September 2020

Existing Plans and Elevations – drawing no. 1247/01 Rev A – dated September 2020

Proposed Plans and Elevations – drawing no. 1247/02 Rev D – dated September 2020

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

3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match in material, colour and texture those used in the existing building.

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

4) Prior to the first occupation of the development, details of an opaque privacy screen on the northern side of the terrace hereby approved shall have been submitted to and approved in writing by the Local Planning Authority, and; the screen shall have been erected in accordance approved details. The approved privacy screen shall be retained and maintained as such at all times thereafter.

REASON: To prevent overlooking & loss of privacy to neighbouring property.

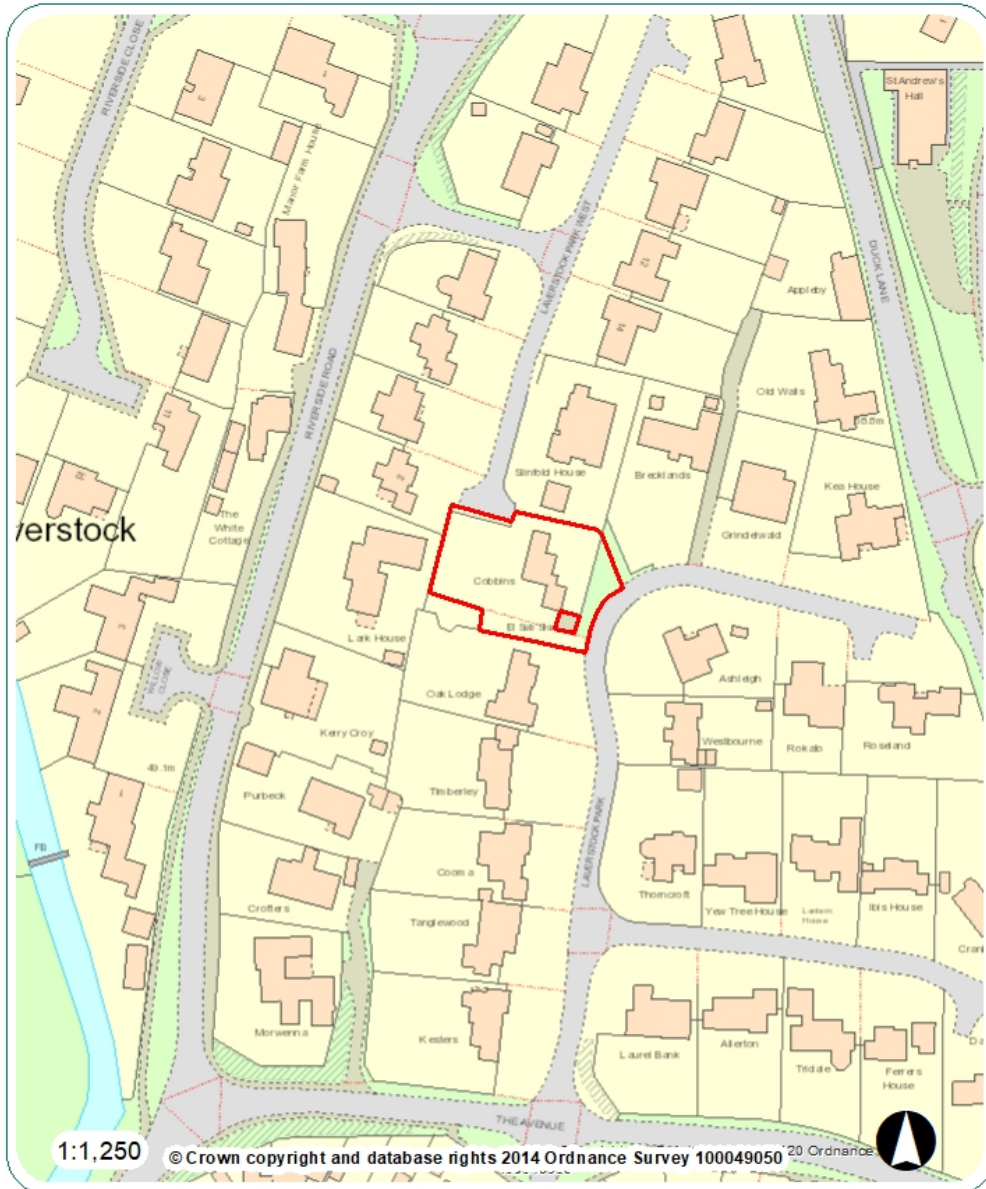
5) The enhancement measures detailed in section 6.3 of the approved Bat Survey Report, reference P205.1.0 dated 24 August 2020 by Eclipse Ecology Ltd shall be carried out in full prior to the first occupation of the development.

REASON: In the interests of biodiversity and nature habitats.

This page is intentionally left blank



This page is intentionally left blank



This page is intentionally left blank

REPORT OUTLINE FOR AREA PLANNING COMMITTEES Report No.

Date of Meeting	4 th February 2021
Application Number	20/05658/106
Site Address	Coldharbour Barn, High Street, Pitton SP5 1DQ
Proposal	Discharge of S106 Agreement dated 15 th March 2005 under S/2004/1131 in respect of public meeting area
Applicant	Mr & Mrs. Inman
Town/Parish Council	Pitton and Farley Parish Council
Electoral Division	Cllr Christopher Devine
Grid Ref	
Type of application	106
Case Officer	Mrs. Becky Jones

Reason for the application being considered by Committee

Cllr Devine has called the application to committee to be determined if recommended for approval (to remove the S106 Agreement) by officers, on the following grounds:

- to consider the need for the public meeting area in the village centre and the local interest in the application

1. Purpose of Report

To consider the above application and the recommendation of the Area Development Manager that the application to remove/discharge the legal agreement should be APPROVED for the reasons detailed below.

2. Report Summary

The main issues which are considered to be material in the determination of this application are listed below:

1. Planning history and reasons for the S106 Agreement under S/2004/1131
2. Purpose of planning agreements (or obligations) and “useful” purpose
3. Highway & pedestrian safety and visibility splay
4. Public open space provision (Policy R2)
5. The planning balance

The application generated 3 letters of objection (including legal representation and a final statement) from Pitton and Farley Parish Council on the grounds that the public open space is still wanted, useful and necessary. 9 letters of support and 10 letters of objection.

3. Site Description

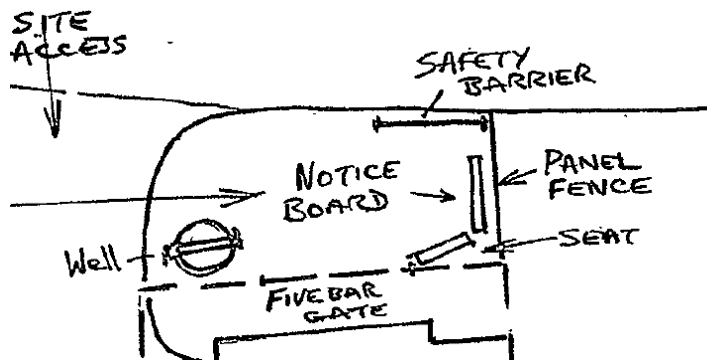
The site comprises a partially enclosed, paved open space in front of a residential dwelling known as the Black Barn. The site lies opposite the Post Office and village shop on the High Street of Pitton.

A Section 106 Agreement identifies the area as a “Public Meeting Area.” The site lies within the Conservation Area. Coldharbour Farmhouse and its outbuilding to the south west of the dwelling are Grade II listed. High Street is an adopted Class C highway and the

site lies within Flood Zone 3.



Approved Amended Site Plan layout approval dated 23 March 2005:



4. The Proposal

The applicant is seeking to remove the Section 106 Agreement (or planning obligation) under S/2004/1131 tying the occupiers of the Black Barn development to retain the use of the site as a public meeting area. They wish to bring the area back within their residential curtilage. The applicant has set out *their* reasons for the application. Primarily, *they* are concerned about having to take on the public liability that may be associated with them in allowing the installation of a notice board on their land, and attracting members of the public onto the private land which is (in their view) in a location considered to be dangerous for pedestrians and highway safety.

6. Planning Policy

The following planning policies are considered to be relevant to the determination of this application:

National Planning Policy Framework (NPPF 2019) and National Planning Practice Guidance

NPPG Guidance on Planning Obligations

Section 106A(6) of the Town and Country Planning Act 1990
(Modification and discharge of planning obligations and useful purpose)

Wiltshire Core Strategy (WCS) adopted Jan 2015:

- CP60: Sustainable Transport
- CP61: Transport and Development
- Saved Policy R2 (annexe D of WCS) Public Open Space Contributions
- Saved Policy R5 (annexe D of WCS) Loss of Public Open Space

Draft Southern Wiltshire Area Board Profile Documents from the Wiltshire Open Space Assessment 2020 study

6. Consultations

WC Conservation - No comment

Highways – No objection to the removal of the legal agreement. Planning condition for the visibility splay would be retained.

Open Spaces – the draft Wiltshire Open Space Assessment leans towards there being sufficient recreation space in Pitton and Farley.

7. Publicity

The application was advertised by site notice and neighbour consultation.

9 letters **supporting** the removal of the S106 Agreement were received on the following grounds:

- Site is inaccessible and dangerous due to traffic when crossing from the shop. Poor visibility of space to approaching traffic.
- Space is pointless and purposeless, notice board has gone and is unsuitably located
- Area has not been maintained for sightlines
- The legal agreement does not require the owners to install a notice board or bench on the site
- Area is not well used and to enter it would feel like trespassing into Coldharbour Barn's garden
- Pitton has other, better and safer meeting areas. Eg bus shelter at the crossroads; the bottom of the footpath leading from the High Street up to the Close and the children's play area or; outside the village hall. These have off road areas where notices can safely be viewed and none require individuals to cross the road at such a dangerous point.
- Notice board was moved to the shop before its recent removal.
- Present occupiers were not party to the legal agreement process.

10 letters **objecting** to the removal of the S106 Agreement were received on the following grounds:

- Public meeting area should be completed (bench and notice board) and retained for its original purpose. It is used and the fence makes it safe for pedestrians
- Proposal to remove the public meeting area goes against Parish Council's intentions
- No traffic accidents have occurred at the site. It is a safe refuge at the centre of the village opposite the village shop
- Other public areas are less safe / accessible (eg playpark, bus shelter and village hall)
- Permission for the public meeting area is tied to the permission for the dwelling
- Well was lost as part of the development and was useful flood risk measure
- The old Black Barn was a popular location for local information and obtaining measurements for flood warnings
- Informal use as a bus drop off
- No pavements so this is a safe place to cross to the shop in busy times

8. Planning Considerations

Planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. (Section 70(2) of the Town and Country planning Act and Section 38(6) of the Planning and Compensation Act 2004). The NPPF is also a significant material consideration and due weight should be given to the relevant policies in existing plans according to their degree of consistency of the framework.

8.1 Planning History and reasons for the S106 Agreement under S/2004/1131

Planning permission was granted for S/2004/1131 by the Southern Area Planning Committee. The application sought to demolish a building known locally as the "Old Black Barn" and to replace it with a new dwelling now known as the Black Barn.

The Old Black Barn had a pair of barn doors opening onto High Street which had been used over the years for the display of notices and posters for local information. The development proposals sought to push the new dwelling back into the site away from the road frontage and provide, in front of the new dwelling, a "public meeting area" and to accommodate the existing well which served a useful flooding prediction purpose.

Officers recommended the application for refusal on the grounds of highway safety and inadequate visibility. However, Members undertook a site visit and subsequently approved the application subject to a Section 106 Agreement which achieved two matters:

Firstly, to secure a financial contribution (commuted sum) towards the cost of the Council and Pitton Parish Council (or a Parish adjoining Pitton Parish Council) of providing/improving and/or maintaining adult or children's sport, play or recreation facilities or installing or maintaining equipment in connection with such facilities on land certified by the Heads of the services. This was a standard clause at the time under policy R2 of the Plan for all new dwellings.

The second part of the legal agreement sought the following:

7. The Owner covenants with the Council at his own expense to clear and keep the Public Meeting Area available for public use by members of the public at all times upon completion of the Proposed Development PROVIDED ALWAYS IT IS HEREBY AGREED AND DECLARED that the Owner will at all times be responsible for maintenance of the Public Meeting Area and PROVIDED FURTHER that the Council shall have no responsibility whatsoever for the Public Meeting Area
8. The Council and the Owner agree that the actual area of the Public Meeting Area may be adjusted so as to reduce its size by adjusting the south eastern boundary being the boundary marked 'A' and 'B' on the said plan attached hereto so as to produce a space of up to 1.5 metres between the proposed house and the public meeting area PROVIDED ALWAYS that such adjustment shall be by agreement in writing with the Council's Head of Development Services

The above clauses and requirements are the matters subject of this application.

The content of the Planning Permission

A notice board, bench and timber guard rail were shown on the amended plan approved on the date of the decision notice (23/3/05). The application was also approved subject to conditions including the ongoing maintenance and provision of a visibility splay across the site frontage.

The decision notice states that:

“In pursuance of its powers under the above act and in accordance with the terms of the application reference S/2004/1131 dated 18/05/2004 and the plans and particulars submitted therewith, Salisbury District Council hereby grant permission.....”

Consequently, officers consider that the planning application and other evidence were incorporated within the planning permission and that the amended plan forms part of the permission.

The development undertaken on site

In due course following the issuing of permission, the previous barn was removed, and the new dwelling was provided. As the development proceeded, the historic well was regrettably filled in and replaced with a faux well. The “public meeting area” was provided, surfaced and enclosed by a timber guard rail to provide pedestrian safety and its layout appears to be in accordance with the approved amended plan with the measurements being well within the tolerance of Clause 8.

The bench and notice board were not installed. However, as there are no conditions or terms in the S106 requiring their installation, the installation of such equipment cannot be enforced. Further, as the amended site plan approved was not annexed to the S106 Agreement, it does not form part of the S106 obligations.

Furthermore, no arrangements were included within the S106 for the space to pass to the Parish Council and out of the owners' control or ownership. Ownership has since passed forward to the present applicant and their consent as landowner is required for any further installations on the land pursuant to any planning permission (or advertisement consent for the notice board) that may or may not be required.

Legal issues between the parties

The applicant has submitted a number of statutory declarations and two legal statements by Trethowans. The latter document looks at the legality of the S106 Agreement and the status of several approved plans. The applicants case is essentially that the S106 requirements no longer serve a useful purpose, and that even if it did, the S106 does not require the public notice to be provided.

In contrast, the Parish Council has also submitted a legal statement by Parker Bullen which questions the maintenance of the meeting area and encroachment by the hedge into the space and sets out the arguments in favour of retaining the meeting area within the village. The Parish Council has also submitted a response to the Trethowan's legal statement in response to the objections and a final statement in response to the applicant.

The need for further consents

The need for further planning permission to be obtained for a notice board has been considered. In fact, the notice board is likely to be considered an advertisement under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 and an application would need to be made by the Parish Council for consent to erect it on the land. Consent from the landowner to display the advertisement would be required and, it is understood, unlikely to be forthcoming.

Local need for the facilities

Members will see from the third party representations received for this application that the issue has become blurred with non-planning (but nevertheless important) local issues and debate about the provision of a central public meeting space, bench and notice board in the village. The representations are roughly split, with half of the respondents purporting that the space is used, safe, necessary and should be "completed" with the provision of a bench and replacement notice board for villagers. The other half of respondents argue that the site is never used, dangerous for pedestrian access due to traffic in High Street and that there are alternative, better and safer locations within the village for the notice board and meeting places.

8.2 Purpose of Planning Agreements (or Obligations) and "useful" purpose

The NPPG sets out that planning obligations assist in mitigating the impact of unacceptable development to make it acceptable in planning terms. Planning obligations may only constitute a reason for granting planning permission if they meet the statutory tests that they are necessary to make the development acceptable in planning terms. They must be:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

Planning obligations assist in mitigating the impact of development which benefits local communities

and supports the provision of local infrastructure. Local communities should be involved in the setting of policies for contributions expected from development.

The applicant has applied to discharge (or remove) the S106 Agreement. With specific reference to the renegotiation of a S106 Agreement, para 020 of the NPPG provides:

Planning obligations can be renegotiated at any point, where the local planning authority and developer wish to do so. Where there is no agreement to voluntarily renegotiate, and the planning obligation predates April 2010 or is over 5 years old, an application may be made to the local planning authority to change the obligation where it “no longer serves a useful purpose” or would continue to serve a useful purpose in a modified way (see [section 106A of the Town and Country Planning Act 1990](#)).

Section 106A(6) of the 1990 Act states:

(6)Where an application is made to an authority under subsection (3), the authority may determine—

(a)that the planning obligation shall continue to have effect without modification;

(b)if the obligation no longer serves a useful purpose, that it shall be discharged; or

(c)if the obligation continues to serve a useful purpose, but would serve that purpose equally well if it had effect subject to the modifications specified in the application, that it shall have effect subject to those modifications.

Therefore, in determining this application, the relevant test for Members to consider is whether the legal agreement still **serves a useful purpose** or not.

Whether or not a planning obligation serves a useful purpose, or would do so equally well if modified, does not require that the useful purpose is related directly to the underlying development or its mitigation. It may also follow that the purpose now served by an obligation may be a different one from that intended to be served when the planning obligation was entered. It is clear to officers from case law that Members are able to consider a broader range of purposes than just the provision of amenity open space when considering whether the planning obligation serves a useful purpose, potentially some of those suggested by the Parish Council in paragraph 11 of Parker Bullen’s Statement, such as a “safe place” into which to step when vehicles pass or in flood conditions or to assist with the social distancing of members of the public queuing for the Post Office.

There is no particular need to revisit the planning merits of the underlying development and s.38(6) of the 2004 Act (determination to be made in accordance with the development plan) does not apply to a decision to discharge or modify a Planning Agreement.

Therefore, Members are advised to focus on addressing the specific requirements of s.106A(6) and may determine this application by:

- Refusing the request and the S106 remains in force
- Discharging it; if it no longer serves any useful purpose or
- Modifying it; if the obligation would serve an equally useful purpose with the modifications sought.

Officers consider that there are several “useful purposes” for the public meeting area for Members to consider, namely highway and pedestrian safety, the visibility splay across the space, and the original financial contribution for public open space provision under Policy R2.

8.3 Highway and Pedestrian Safety and Visibility Splay

At the time of the 2004 application, the highway officer recommended refusal of the application on safety grounds and had particular concerns regarding the safety of the public meeting area. He stated:

Whilst it is acknowledged that the proposed development will result in improved visibility at the site access, visibility will still fall short of the laid-down standards. I therefore recommend that this application be refused on highway grounds for the following reason:-

The site has insufficient frontage to the north-east to enable the access to be satisfactorily laid-out incorporating the necessary visibility splay which is essential in the interests of highway safety.

If, notwithstanding the above, your Council are minded to approve this application then visibility should be provided at the access with nothing over 1.0m in height above the adjacent carriageway level being planted, erected or maintained in front of a line measured 2.0m into the access back from the carriageway edge, extending to the north-east corner of the site frontage. I am particularly concerned that the layout of the meeting area as submitted, may lead to pedestrians stepping into the carriageway at its north-eastern corner at a point where intervisibility between pedestrians/drivers is virtually nil. Notwithstanding my visibility requirements above, I consider that a section of high visibility pedestrian guard rail should be installed at this point in the event of planning permission being granted and I shall be glad to provide details if required.

The highways officer has assessed this application. He stated:

I note the proposal seeks to confirm that the obligations within the S.106 Agreement dated 15th March 2005 for application S/2004/1131 have been complied with/discharged and presumably to allow the land charge to be removed from the register.

I do not think the discharge of the clauses in respect of the public meeting area will cause a highway safety issue, as the concerns regarding visibility at the site access are mitigated by Condition 2 of the consent (see below). Additionally, concerns regarding pedestrian safety are also mitigated by the Condition 3 of the consent (also below). Therefore, I do not believe that discharge of the S.106 Agreement will cause an issue in Highway terms.

(2) Before the dwelling hereby approved is first occupied, visibility shall be provided at the access with nothing over 1metre in height above the adjacent carriageway level, being planted, erected or maintained in front of a line measured 2.0m into the access back from the carriageway edge, extending to the northeast corner of the site frontage.

(3) A pedestrian guard rail (timber) shall be installed adjacent to the highway and the "public meeting area" in accordance with details to be submitted to and approved in writing by the Local Planning Authority, and maintained in this condition hereafter.

NOTE: It should be noted that this Highway Authority has raised concerns on more than one occasion about the substandard visibility at the site access. Any proposed discharge of the said Agreement must not affect the restrictions/conditions placed on this development in regards to vehicle and pedestrian visibility.

The applicant considered this response and submitted a Technical Note, which disagreed that the conditions satisfactorily dealt with the safety matters and agreed that visibility for people trying to cross the road at this point is inadequate, for the following reasons:

- No safety audit has ever been undertaken
- Potential conflict between pedestrians and reversing cars using the parking area at the front of the shop and also the No 87 bus.

- Pedestrians have to step out into the carriageway to cross from the meeting area.
- There is an existing hedge to the north east, outside the adjoining property which severely restricts the ability for pedestrians stepping out into the carriageway to see, or be seen by oncoming vehicles. Ordinarily pedestrian intervisibility splays of 2.0m are provided at accesses onto pedestrian footways, but in the absence of a footway, there is very limited visibility.
- Advice contained within Manual for Streets suggests that a sight stopping distance of 43.0m should be provided on a road of this nature. Given the limited site frontage, combined with the lack of any pedestrian footway a sight stopping distance of just some 3.0m is achievable
- It is also evident that there is no dropped crossing or the presence of any tactile paving, which is advocated by Manual for Streets to aid those with mobility impairments.
- The lack of any street lighting within the vicinity of the meeting area also makes exiting the area more dangerous during periods of darkness, or through Winter months.

The highways officer looked at the Technical Report and reiterated his comments:

*As mentioned previously, I have no objection to the discharge of the 106 Agreement obligation related to the public meeting area. **The removal of the public meeting area will be of benefit to highway safety.***

However, it is imperative for reasons of highway safety that condition 2 below remains on the consent, to ensure that the maximum visibility is maintained at the site vehicular access. It appears from the photos provided in the attached that the applicant may actually already be in breach of this condition, due to the tall vegetation circled in the below image. It is however not possible to confirm whether this vegetation is within 2m of the carriageway edge, without viewing on site.

Despite this, I am mindful that this application only seeks to remove the public meeting area obligation and I have no issue with this proposal.

The applicant subsequently confirmed that the nearest edge of the bush is 2.4m from the highway's edge and so there is no breach of the condition that seeks to protect the visibility splay for vehicles.

In considering the application to remove the S106 Agreement and the meeting area from accessible public use, officers are mindful of the previous decision taken by Members to approve the development in 2004 and also the many views recently expressed by residents and the Parish Council. Nevertheless, the point has also been made by some third parties that by providing a notice board and bench on this site, and thus actively encouraging more people to use the space and cross to and from the shop, the *likelihood* of an accident may be increased.

The highways officer therefore supports the removal of the S106 on highway safety grounds and it may be concluded that the Legal agreement does not serve a useful purpose in this respect.

8.4 Public Open Space Provision and Financial Contribution

The first clause in the Legal Agreement required the financial contribution towards open space provision and maintenance under saved Policy R2. This sum was received and the 5 year deadline for any repayment of this sum has long passed. Therefore, it can be concluded that the legal agreement no longer serves a useful purpose in this respect.

The second part of the Legal Agreement relates to the provision and maintenance of the public meeting area and this was imposed as an additional requirement for the development, over and above the

standard financial contribution under saved Policy R2. This policy provides for additional amenity space and landscaped areas and states:

New residential development will be required to make provision for recreational open space (comprising facilities for communal outdoor sport and children's play) in accordance with a standard of 2.43 hectares per 1000 population. Additional amenity open space (including landscaped areas, public gardens and roadside verges) will be sought as appropriate.

The site constitutes a public meeting area on privately owned and controlled land, and was considered by Members at the time to meet the three tests, namely:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

The land is retained by the Legal Agreement for public use and owner is lawfully required to enable the use of the public meeting area in accordance with the S106 Agreement.

It would seem given the application to remove the S106, that 15 years later, the land owner no longer wishes to be party to this arrangement or to provide their agreement to any further installations on the land which would encourage or increase public access or to accept responsibility for any public liabilities associated with the use.

The main formal public open space within the village is Pitton Village Hall Playing Field managed by the trustees of the hall and is used by a number of village clubs. There is also the play area situated between High Street and The Green, accessed by footpath PIFA16:



The open spaces team have considered the draft Southern Wiltshire Area Board Profile Documents from the Wiltshire Open Space Assessment 2020 study. This draft study which includes Pitton and Farley Parish leans towards there being sufficient recreation space.

Consequently, in land use Planning terms related to policy R2, there would appear to be no justification for this additional area of public open space.

However, if Members may feel that the public meeting area is still serving a useful purpose within the village today, as a pedestrian refuge, informal bus stop, and a safe place from vehicles despite the highway concerns and the prohibitive restrictions of private ownership and control. Therefore, removal of the Section 106 Agreement can be resisted if Members feel that there is still a need for this public

meeting area and there is no better, alternative open space provision in Pitton for this purpose, or that there is an under-provision of such space in the village, or that the meeting area fulfils some other useful purpose.

9. Conclusion

Following legal advice, officers have no objections to the removal of the S106 agreement for the following reasons:

The Agreement – The present Agreement and permission do not contain provisions for the land to be transferred to the Parish Council, or to provide the public notice board. Thus, the land remains in private hands and there is no requirement for the landowner to erect a notice board.

Highway safety - The 2004 application for the Black Barn was approved contrary to the safety recommendation of the highways team at that time, following a site visit by Members. However, no safety audit was undertaken then and the highways team continue to raise concern about the use of the space as a public meeting area on restricted visibility grounds and consider that the removal of the public meeting area will be ***of benefit to highway safety***.

Open space - The adopted Policy R2 of the WCS seeks to secure a financial contribution towards open space provision as part of new development and the provision of amenity or landscaped areas as part of new residential development. Given that the financial contribution was paid and the deadline for repayment is long expired, the Legal Agreement no longer serves a useful purpose in this matter. The Council's open space officer has also confirmed that the public space in front of the barn is not required for that purpose.

Therefore, whilst an area of open space for the purposes of community meeting within the village is still welcomed and is likely to be valued by many residents and the Parish Council, the planning balance is tilted, in officers' views, by the safety concerns of any increased use of the meeting area for use by pedestrians, due to the restricted visibility outlined in the Technical Report. In officers' views, these concerns outweigh any useful purpose that the privately owned and controlled land may serve.

Therefore, officers raise no objection to the removal of the Section 106 Agreement and the return of the land to private domestic use only. The site would still be subject to the visibility splay condition attached to S/2004/1131 for highway safety purposes.

10. RECOMMENDATION

The application should be APPROVED and the Section 106 Agreement should be discharged.

This page is intentionally left blank



This page is intentionally left blank



This page is intentionally left blank