

Western Area Planning Committee

MINUTES OF THE WESTERN AREA PLANNING COMMITTEE MEETING HELD ON 28 SEPTEMBER 2022 AT COUNCIL CHAMBER - COUNTY HALL, BYTHESEA ROAD, TROWBRIDGE, BA14 8JN.

Present:

Cllr Christopher Newbury (Chairman), Cllr Bill Parks (Vice-Chairman), Cllr Trevor Carbin, Cllr Ernie Clark, Cllr Andrew Davis, Cllr Edward Kirk, Cllr Stewart Palmen, Cllr Antonio Piazza, Cllr David Vigar, Cllr Suzanne Wickham and Cllr Mike Sankey (Substitute)

Also Present:

Cllr Matthew Dean

60 **Apologies**

Apologies for absence were received from Cllr Antonio Piazza and Cllr Pip Ridout. Cllr Ridout was replaced for this meeting by Cllr Mike Sankey.

61 **Minutes of the Previous Meeting**

The minutes of the meeting held on 6 July 2022 were presented.

Resolved:

To approve as a correct record and sign the minutes of the meeting held on 6 July 2022.

62 **Declarations of Interest**

Cllr Sankey informed the Committee that he had been lobbied in relation to PL/2022/01141 – Kingsdown Farm, Lords Hill, Longbridge Deverill and confirmed that he would listen to all the evidence, comments and detail contained in the report before making a decision. The Chairman indicated that all other Committee members had also been lobbied in relation to this application.

63 **Chairman's Announcements**

The Chairman asked that all phones were switched off or turned to silent mode to minimise any potential disturbances and explained the procedure if a fire alarm were to sound.

64 **Public Participation**

No questions had been received from councillors or members of the public.

The Chairman welcomed all present. He then explained the rules of public participation and the procedure to be followed at the meeting.

65 **Planning Appeals and Updates**

The Planning Appeals Update Report for 24 June 2022 to 16 September 2022 was received.

The Development Management Area Team Leader commented on three applications that went to appeal for Land East of the Poplars Residential Park, Poplar Tree Lane, Southwick, Trowbridge. He explained that the three applications were refused under delegated powers principally citing concerns about highway safety and additional traffic generation associated with the proposed additional gypsy and traveller plots being accessed via a sub-standard access and restricted junction with the A361 in terms of forward visibility for oncoming traffic heading north-east from Rode direction. At appeal, the inspector did not consider the highway concerns to be sufficient to warrant dismissing the appeals, and allowed all three, subject to conditions. The Development Management Area Team Leader reminded the Committee that applications being refused required robust evidence and pointed out that two of the three appeal decisions were subject to a partial award of costs against the Council in terms of citing a drainage reason for refusal, which the appointed inspector argued could have been adequately addressed by planning condition.

Officers also responded to queries in relation to the dismissed appeal for an agricultural worker dwelling at Meadow View Farm, Bradford Leigh.

Resolved:

To note the Planning Appeals Update Report for 24 June 2022 to 16 September 2022.

66 **Planning Applications**

The Committee considered the following applications:

67 **PL/2022/01141 - Kingsdown Farm, Lords Hill, Longbridge Deverill, BA12 7DY**

Public Participation:

- Sarah Lovell – spoke in objection to the application
- Caroline Hobbs – spoke in objection to the application
- Wilfred Mole – spoke in objection to the application
- Kate Phillips – Applicant – spoke in support of the application
- Jonathan Seed – spoke in support of the application
- Matt Williams – Agent – spoke in support of the application
- Richard Burden – Cranborne Chase AoNB – spoke in objection to the application
- Cllr James Kettler, Longbridge Deverill Parish Council – spoke in objection to the application

Steven Sims, Senior Conservation/Planning Officer introduced the report which recommended that planning permission be approved, for reasons detailed in the report, for the variation of condition 3 (pursuant to the timescale for the deposit of waste materials) imposed on 17/09988/VAR.

The officer advised that the key issues for consideration included, the principle of development, the impact on the character and appearance of the ANOB and available views from public vantages/footpaths, the impact on living conditions of neighbouring residents, as well as highway and ecology issues.

The Committee noted that planning permission was originally granted for agricultural buildings and the re-profiling of land for these buildings dated back to 2010 lodged under application reference W/10/02377/FUL and the deposit of waste and all earthworks were conditioned to be completed within 3 years. However, this was not long enough.

Application 17/03155/VAR approved a 5-year extension to the time allowed to re-profile the site, and even with the extension, the applicants have not completed the land re-profiling.

The current layout of the site and building design was approved under revised application reference 17/09988/VAR, which established the principle of development for the erection of livestock buildings, dung store, access track and continued re-profiling of the land – which was originally established by the granting of application W/10/02377/FUL, and members were advised that this variation application does not propose to deviate away from the previously consented re-profiled land levels or erect different buildings, but additional time is required to complete the works as set out within the submission.

The case officer explained that the application solely seeks the Council's consideration of varying a planning condition to allow the applicant's a longer period to re-profile the land, to provide a level platform for buildings that have consent but have not been constructed along with delivering the landscape planting to provide a landscape buffer and filter views of the development site.

Members were advised that officers consider the variation application to be acceptable and would not materially harm the amenities of local residents or

result in any additional harm to the character of the AoNB, although it was accepted that the delayed landscape planting was a concern.

The officer explained that planning conditions relating to the number of vehicles allowed to enter the site and the delivery times would be re-imposed. Members were advised that there were no highway safety issues with the access or egress and no objections were raised by the Council's highway officer. The visual impacts of the development on the character of the AoNB, living conditions of neighbouring residents, highway, ecology and drainage issues were all dealt with under the previous approved applications, and it was concluded, subject to conditions, the application should be supported.

It was noted that of the 22 comments received for the previous application 17/03155/VAR, there was only one objection and no objection from the parish councils. Any concern highlighted or harm caused by the delivery of inert waste to the site and the land re-profiling works were not considered sufficient to warrant a refusal of application W/10/02377/FUL, and were not considered sufficient to warrant a refusal of application 17/03155/VAR or the most recent 17/09988VAR application.

Members were advised that there were no objections to this current variation submission from the Council's highways team or public protection team and there have been no significant changes in local circumstances or planning policy. The scheme proposes no changes to the design of the buildings, access or on-site business practices. Therefore, officers concluded that the proposed extension of time would not cause harm to warrant a refusal.

The report summarised the responses to the statutory consultations and the public consultation. It was noted that 88 comments of objection were received from the public consultation, and that there was a similar number of supportive third-party submissions.

In response to technical questions asked by the Committee, the officer explained that the Environment Agency were the appropriate authority to review and respond to any pollution or contamination to chalk streams. A consultation had taken place with the EA and no breach had been identified. Members were also advised that the EA had been consulted on three occasions about this application.

Members were also advised that the buildings yet to be constructed could only be lawfully erected once the approved land re-profiling work has been completed.

Members of the public then had the opportunity to present their views, as detailed above.

The unitary division member, Cllr Christopher Newbury spoke in relation to a number of concerns he had regarding the application. These included the scale of the development; its visual impact upon the surrounding area as an area of outstanding natural beauty; the relationship and effects on local residents, the

design, bulk, height and general appearance of the proposed development and the consequential environmental and highway impacts.

Cllr Newbury reported that he called in the application at the request of Longbridge Deverill Parish Council to give their objections the benefit of a public debate, these included the impacts of the haulage traffic, the effect on the protected landscape (AoNB) and ecology matters. It was also noted that the approved planting and screening had not been actioned, along with concerns raised about mud on road and possible contamination.

In response to issues raised during public participation and the Unitary Member statement, the planning officer explained that the Environment Agency were the appropriate authority that issued the environmental permit for the site; and that the visual impacts of the land re-profiling and new farm buildings had the benefit of extant permission. Members were advised that the proposed application would not deviate from the previously approved finished re-profiled land levels; and that the highway impacts had been fully assessed and were not considered unacceptable. The Council had approved a landscape scheme and that was an extant requirement for the applicant to complete once the land re-profiling works were complete.

So that the Committee had something to debate Cllr Christopher Newbury proposed a motion to defer the application for a member site visit. This was seconded by Cllr Suzanne Wickham.

A debate followed where some Members confirmed that they had previously visited the site which helped with their understanding of the application and comments received. Other comments made included the potential for securing a planning condition for the phasing of the landscape planting and require the applicant to bring forward some landscape planting on or near the land that is already reprofiled and with some agricultural buildings already in place and in use.

At the conclusion of the debate, it was

Resolved:

To defer consideration of the application to allow for a site visit to be arranged on a date to be agreed.

(Note: The vote for this motion was 5 for a site visit, 5 against a site visit. Therefore, the Chairman used his casting vote in favour of a member site visit.)

68 **PL/2022/02156 - 17A Horse Road, Hilperton Marsh, Trowbridge, BA14 7PE**

Public Participation:

- Cole Bowden – spoke in objection to the application
- David Rose – spoke in objection to the application

- Peter Bevan – spoke in objection to the application
- Ian Lucas – spoke in support of the application
- Alvin Howard – Agent – spoke in support of the application
- Kate Hayes - Longbridge Deverill Parish Council – spoke in objection to the application

Kenny Green, Development Management Area Team Leader introduced the report which recommended that planning permission be approved, for the replacement and raising of roof and associated vertical extension to create bedrooms on the first floor and replacement garage (resubmission of PL/2021/09030) and retrospective permission for a garden room single storey infill addition to the rear).

The officer advised that the key issues for consideration included, the principle of development, as well as impact on visual amenity, heritage assets, neighbour amenity and highway/parking effects.

The Committee was advised that the property had been subject to a number of planning applications, which included an extant approved application that allowed the raising of the roof to create an upper floor level as well as extend to the side and rear.

The Committee were advised that the current proposal was a materially different design to the extant approved scheme and would also provide upper floor accommodation, but officers argued it would be complied with relevant policies of the adopted Wiltshire Core Strategy, the made Neighbourhood Plan, the Village Design Statement for Hilperton and the NPPF, and accordingly was recommended for approval subject to conditions.

The report summarised the responses to the statutory and the public consultations, and the Committee was informed that 15 comments of objection had been received from the public consultation, and that the parish council also objected.

There were no technical questions asked by the Committee.

Members of the public then had the opportunity to present their views, as detailed above.

The unitary division member, Cllr Ernie Clark spoke in relation to a number of concerns he had regarding the application. These included the scale of the development, the visual impact on the surrounding area, the relationship to adjoining properties, the design - bulk, height, and general appearance, the environmental or highway impacts, and car parking. Cllr Clark felt that the application seemed to be at odds with previous permissions given on the site, and asked if there was a limit to the number of applications for one site.

In response to issues raised during public participation and the Unitary Member statement, the planning officer explained that when comparing the original dwelling, the extant approved scheme and what was now proposed, the

proposal in front of the committee would account for approximately an extra 2% footprint on total site and was not considered as overdevelopment. Compared to the extant approved upper floor addition, planning officers felt that the current application was an improvement in design terms and would be more in keeping with its current surroundings, and with the recommended use of obscure glazed windows to the rear to be secured by condition, the proposed development would not result in material neighbouring harm.

So that the Committee had something to debate Cllr Ernie Clark moved a motion to refuse the planning application for reasons of overlooking and contrary to Core Policy 57, criterion 3, 6 and 7. This motion was not supported by the Committee and Cllr Mike Sankey moved a motion to approve the application subject to the conditions as detailed in the report. This was seconded by Cllr Stewart Palmen.

A debate followed where Members commented on the need to consider the application on planning grounds and not personal reasons.

At the conclusion of the debate, it was

Resolved:

To grant planning permission 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:**

- Location and Block Plan - Drg No. 2470/BR/1 Rev A**
- Block Plan (dimensioned) – Drg No. 2470/BR/2 Rev A**
- Existing Bungalow – Drg No. 2470/BR/7**
- Proposed Elevations – Drg No. 2470/BR/3 Rev B**
- Proposed Floor Plans – Drg No. 2470/BR/4 Rev E**
- Block Plan with parking spaces – Drg No. 2470/BR/6 Rev A**
- Proposed Replacement Garage Plan – Drg No. 2470/BR/8**

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

- 3. The vertical sections of upper floor windows in the east elevation of the extension hereby approved shall be glazed with obscured glass only to an obscurity level of no less than level 4 and they shall be permanently fixed with a ventilation stay restricting the opening of the window, this prior to the first floor being first brought into use;**

and thereafter, the obscured glass shall be permanently maintained for the lifetime of the development.

REASON: In the interests of residential amenity and privacy.

4. The flat roofed part of the garden room hereby approved shall not be used as an external amenity area or roof garden.

REASON: In the interests of residential amenity and privacy.

5. 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), the garage hereby permitted shall not be converted to habitable accommodation.

REASON: To secure the retention of adequate parking provision, in the interests of highway safety and in the interest of neighbour amenity.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending those Orders with or without modification), no development within Part 1, Classes A-E shall take carried out to the extended dwellinghouse hereby permitted or within its curtilage.

REASON: In the interests of the neighbour amenity of the area and to enable the Local Planning Authority to consider individually whether planning and in the interest of visual amenity.

7. 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 window, dormer window or rooflight, other than those shown on the approved plans, shall be inserted within the upper floor elevations of the dwellinghouse or within the northern elevation of the garage hereby permitted.

REASON: In the interests of residential amenity and privacy

69 **PL/2021/09909 - Ashton Street Centre, Ashton Street, Trowbridge, BA14 7ET**

Public Participation:

- Claire Durbin – Agent – spoke in support of the application

Gen Collins, Senior Conservation/Planning Officer introduced the report which recommended that planning permission be approved, for reasons detailed in the

report, for the Redevelopment of former day care centre (Class F.1) comprising the erection of 48 No. dwellings and associated access and landscaping works).

The officer advised that the key issues for consideration included, the principle of development, impact on Heritage Matters design/visual appearance, housing, landscape and public open space, ecology, education, impact on the residential amenity, highways/parking issues, drainage and S106/CIL.

The Committee noted that the development proposes the reuse of brownfield land for housing within a principal settlement. The provision of 48 dwellings carries significant weight given that the Council cannot as yet demonstrate a robust five year land supply. Of the 48 units, 14 will be affordable housing and this also carries significant weight given that there is a need for affordable housing in this location. It would also provide (i) an improvement to the location visually in terms of improved landscaping and demonstrate an efficient and effective use of land; (ii) contributions to education facilities and provide construction jobs as well as inviting 48 new households who would spend money locally and likely contribute to the local employment pool.

The officer reported that the introduction of a swale and provisions of a landscape and ecological management plan that would improve drainage at the site and ensure the longevity of the biodiversity and may well enhance the biodiversity. The provision of additional cars may impact parking availability in the area, however the scheme has sought to increase on-site parking as much as possible and there are no highway objection or concerns in terms of highway safety. Additional contributions in the form of a Green Travel Plan, works to improve the existing bus stops at the site, a new footpath and contributions to Traffic Regulation Orders in the locality are also considered benefits.

Accordingly on balance, the numerous benefits in favour of the scheme outweigh any harm identified and as such in accordance with paragraph 11 of the NPPF 2021 the proposed development benefits from a presumption in favour of it and it is recommended that planning permission be granted subject to conditions

In response to technical questions asked by the Committee, the officer explained that a request had been received from Trowbridge Town Council to transfer open spaces for management by the Town Council. This would be for officers to finalise with the Town Council outside of any S106 agreement; meetings between housing officers and the design team have taken place in relation differing views about the design of the affordable housing element -the Chairman asked for Housing Officers to be invited to future Planning Committees where there is a difference of opinion between officers; EV car charging points and air source heat pumps were part of the development.

Members of the public then had the opportunity to present their views, as detailed above.

The unitary division member, Cllr Stewart Palmen spoke in support of the application and proposed a motion to approve the application subject to the conditions detailed in the report. This was seconded by Cllr Ernie Clark.

At the conclusion of the debate, it was

Resolved:

That the Committee delegates authority to the Head of Development Management to grant planning permission subject to the conditions and informatives listed below following the completion of a s106 agreement to secure the matters also set out below

S106 Heads of Terms Affordable Housing: Core Policy 43 ‘Providing Affordable Housing’ of the WCS requires 30% affordable housing in this location (i.e. 14 affordable homes). The Council’s Housing Enabling team indicated that a tenure split of 60% affordable rented homes (8 homes) and 40% shared ownership homes (6 homes) will be required.

Public Open Space: Policy CP3 of the WCS and Saved policy LP4 ‘Providing Recreation facilities in New Developments’ of the former West Wiltshire Local Plan requires developments to provide recreational open space. The POS team indicated that a development of 48 dwellings generates a requirement for 1359m² of casual open space, 56.64m² of play space and 1132m² for sports.

Open Space Management: The required on-site POS provisions, along with the future management and maintenance of the Public Open Space, Surface Water Drainage scheme infrastructure, and structural landscaping and ecology buffer zones, as shown on LEMP.

Highways: Policy CP3 Green Travel Plan including £300 of travel vouchers) bus stop improvements (£12,000), the provision of a new footpath and TRO’s (£6,000)

Recycling and Waste Facilities: The Council’s Waste & Environment Service team indicated that the on-site infrastructure required by the proposal is the provision of waste and recycling containers for each residential unit. This contribution is directly related to the development as the cost is £91 per dwelling. The contribution based on the provision of 48 dwellings would be £4,368. This will be secured via a section 106 agreement should planning permission be granted.

Education Infrastructure: Policy CP3 and Saved policy S1 ‘Education’ of the former West Wiltshire Local Plan outlines that where a proposal for residential development gives rise to the need for additional education provision, a planning obligation will be sought to meet that need. The scale of the obligation to be sought will relate to the scale of need arising

from the proposed development. In this case the education requirements are:

- Early years places = £105,132
- Primary school places = £225,096
- Secondary school places = £206,460

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 Plans list ref 21054 received on 12.09.22 as well as the following documents:

- FRA and Drainage Strategy: received 28 June 2022
- Arboricultural Method Statement
- Waste Minimisation Statement
- Proposed Access Arrangement Plan: Drg. SK01_RevA
- Swept Path Analysis large 4 Axle Refuse Plan 1of2 Drg.SK03_RevA
- Swept Path Analysis large 4 Axle Refuse Plan 2of2 Drg.SK03_RevA
- Travel Plan Report RevA
- Ecological Assessment
- Construction Environmental Management Plan
- Landscape and Ecological Management Plan
- Ground Investigation Report
- Biodiversity Net-Gain Assessment

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

3. The development will be carried out in strict accordance with the following:

- Ecological Assessment (Ethos Environmental Planning, September 2021)
- Landscape and Ecology Management Plan (Ethos Environmental Planning, October 2021)
- Biodiversity Net Gain Assessment (Ethos Environmental Planning, September 2021)
- Construction Environmental Management Plan (Ethos Environmental Planning, September 2021)

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

- 4. No external light fixture or fitting will be installed within the application site unless details of existing and proposed new lighting have been submitted to and approved by the Local Planning Authority in writing. The submitted details will demonstrate how the proposed lighting will impact on bat habitat compared to the existing situation.**

REASON: To avoid illumination of habitat used by bats.

- 5. No development shall commence on site (other than that required to be carried out as part of a scheme of remediation approved by the Local Planning Authority under this condition), until steps (ii) to (iii) below have been fully complied with, (step (i) having already been carried out.) If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until step (iv) has been complied with in full in relation to that contamination.**

Step (i) Site Characterisation:

An investigation and risk assessment must be completed to assess the nature and extent of any contamination (including asbestos) on the site, whether or not it originates on the site. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings submitted to and approved in writing by the Local Planning Authority. The report of the findings must include:

A survey of the extent, nature and scale of contamination on site;

The collection and interpretation of relevant information to form a conceptual model of the site, and a preliminary risk assessment of all the likely pollutant linkages;

If the preliminary risk assessment identifies any potentially significant pollutant linkages a ground investigation shall be carried out, to provide further information on the location, type and concentration of contaminants in the soil and groundwater and other characteristics that can influence the behaviour of the contaminants;

An assessment of the potential risks to human health, property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, groundwater and surface waters, ecological systems, archaeological sites and ancient monuments;

This must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11" and other authoritative guidance.

Step (ii) Submission of Remediation Scheme:

If any unacceptable risks are identified as a result of the investigation and assessment referred to in step (i) above, a detailed remediation scheme to bring the site to a condition suitable for the intended use must be prepared. This should detail the works required to remove any unacceptable risks to human health, buildings and other property and the natural and historical environment, should be submitted to and approved in writing by the Local Planning Authority.

The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, a timetable of works and site management procedures.

Step (iii) Implementation of Approved Remediation Scheme:

The approved remediation scheme under step (ii) must be carried out in accordance with its requirements. The Local Planning Authority must be given at least two weeks written notification of commencement of the remediation scheme works.

Step (iv) Reporting of Unexpected Contamination:

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it should be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment should be undertaken in accordance with the requirements of step (i) above and where remediation is necessary, a remediation scheme should be prepared in accordance with the requirements of step (ii) and submitted to and approved in writing by the Local Planning Authority.

Step (v) Verification of remedial works:

Following completion of measures identified in the approved remediation scheme a verification report must be produced. The report should demonstrate the effectiveness of the remedial works.

The verification report should be submitted to and approved in writing of the Local Planning Authority.

Step (vi) Long Term Monitoring and Maintenance: If a monitoring and maintenance scheme is required as part of the approved remediation scheme, reports must be prepared and submitted to the Local Planning Authority for approval at the relevant stages in the development process as approved by the Local Planning Authority in the scheme approved pursuant to step (ii) above, until all the remediation objectives in that scheme have been achieved.

All works must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11" and other authoritative guidance

REASON: To ensure the amenities and safety of future occupants of the development.

- 6. No development shall commence on site until a scheme of Ultra Low Energy Vehicle infrastructure has been submitted to the LPA. The scheme must be approved by the LPA prior to implementation and thereafter be permanently retained.**

REASON: To ensure the amenities and safety of future occupants of the development.

- 7. No construction work shall take place on Sundays or Public Holidays or outside the hours of 0800 to 18:00 Monday to Friday and 08:00 to 13:00 on Saturday**
- 8. No development works shall commence until a Construction Method Statement has been submitted to and approved in writing by the LPA. The CMS shall include the following:**

- The plan shall include details of the measures that will be taken to reduce and manage the emission of noise, vibration and dust during the demolition and/or construction phase of the development. It shall include details of the following:**
 - The movement of construction vehicles;**
 - The cutting or other processing of building materials on site;**
 - Wheel washing and vehicle wash down facilities;**
 - The transportation and storage of waste and building materials;**
 - The recycling of waste materials (if any);**
 - The loading and unloading of equipment and materials;**
 - The location and use of generators and temporary site accommodation;**
 - Where piling is required this must be Continuous flight auger piling wherever practicable to minimise impacts.**
 - There shall be no burning undertaken on site at any time.**

The demolition and construction phases of the development will be carried out fully in accordance with the construction management plan at all times.

REASON: To safeguard the amenities of the area.

- 9. The development shall be undertaken in accordance with the details set out in the approved submitted drainage strategy prepared by Adama Consulting dated November 2021.**

REASON: To ensure the approved development is adequately drained and to avoid flood risk.

- 10. The development shall be undertaken in accordance with the details set out in the approved drainage strategy prepared by Adama Consulting dated November 2021.**

REASON: To ensure the approved development is adequately drained and to avoid flood risk.

- 11. The development shall be undertaken in accordance with the details set out in the approved Construction Environment Management Plan.**

REASON: To ensure the amenities and safety of future occupants of the development.

- 12. No development shall commence on site until details of the estate roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture, including the timetable for provision of such works, have been submitted to and approved by the Local Planning Authority. The development shall not be first brought into use and no dwelling hereby permitted shall be first occupied until the estate roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture have all been constructed and laid out in accordance with the approved details.**

REASON: 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, to ensure that the roads are laid out and constructed in a satisfactory manner.

- 13. No part of the development shall be first brought occupied, until the visibility splays shown on the approved plans have been provided with no obstruction to visibility at or above a height of 600mm above the nearside carriageway level. The visibility splays shall always be maintained free of obstruction thereafter.**

REASON: In the interests of highway safety

14. No dwelling on the development hereby approved shall be occupied until enough space for the parking vehicles, together with a vehicular access thereto, has been provided in accordance with the approved plans. The said spaces shall not be used other than for the parking of vehicles or for the purpose of access.

REASON: To ensure that adequate provision is made for parking within the site in the interests of highway safety.

15. No dwelling on the development hereby approved shall be occupied until the cycle parking facilities shown on the approved plans have been provided in full and made available for use. The cycle parking facilities shall be retained for use in accordance with the approved details 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.

16. No unit shall be occupied until those parts of the Travel Plan capable of being implemented prior to occupation have been implemented. Those parts identified for implementation after occupation shall be implemented in accordance with the timetable contained therein and shall continue to be implemented if any part of the development is occupied.

REASON: In the interests of reducing the amount of private car movements to and from the development.

17. No unit shall be occupied until full details of the proposed new footpath and staggered barrier connecting to Lark Down as shown on approved site has been approved and implemented.

REASON: In the interests of pedestrian safety and reducing the amount of private car movements to and from the development.

18. The development will be carried out in strict accordance with the following: Ecological Assessment (Ethos Environmental Planning, September 2021) Landscape and Ecology Management Plan (Ethos Environmental Planning, October 2021) Biodiversity Net Gain Assessment (Ethos Environmental Planning, September 2021) Construction Environmental Management Plan (Ethos Environmental Planning, September 2021)

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

19. No external light fixture or fitting will be installed within the application site unless details of existing and proposed new lighting have been submitted to and approved by the Local

Planning Authority in writing. The submitted details will demonstrate how the proposed lighting will impact on bat habitat compared to the existing situation.

REASON: To avoid illumination of habitat used by bats.

20.The development hereby approved shall not commence above ground slab level until a scheme of hard and soft landscaping has been submitted to and approved in writing by the LPA , the details of which shall include:

- a.detailed planting specification showing all plant species, supply and planting sizes and planting densities;
- b. finished levels and contours;
- c. means of enclosure;
- d. car park layouts;
- e. other vehicle and pedestrian access and circulation areas;
- f. all hard and soft surfacing materials;
- g. minor artefacts and structures (e.g. furniture, play equipment, refuse and other storage units, signs, lighting etc);
- h. proposed and existing functional services above and below ground (e.g. drainage, power, communications, cables, pipelines etc indicating lines, manholes, supports etc).

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

21.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.

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.

22.No development shall commence on site above slab level until details and samples of the materials to be used for the external walls and roofs, windows and doors 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: In the interests of visual amenity and the character and appearance of the area.

23.No development shall commence within the area indicated by application PL/2021/09909 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. The evaluation is to be carried out by qualified archaeologists following the standards and guidelines for such work as set out by the Chartered Institute for Archaeologists (CIfA).

REASON: To enable the recording of any matters of archaeological interest. Costs of this work are to be borne by the applicant.

24.The development hereby approved shall be undertaken in strict accordance with the details as submitted and approved within the tree survey prepared by Sharples Tree Services dated November 2021.

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

25.The development shall not be occupied until details of at least 24 swift/bird boxes/bricks have been submitted to and approved in writing by the LPA and installed to be retained for the lifetime of the development.

REASON: In the interests of ensuring biodiversity at the site.

26.No development shall commence on site until details of the works for the disposal of sewerage including the point of connection to the existing public sewer have been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be first occupied until the approved sewerage details have been fully implemented in accordance with the approved plans.

REASON: To ensure that the proposal is provided with a satisfactory means of drainage and does not increase the risk of flooding or pose a risk to public health or the environment.

Informatives

- 1.** 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
- 2. INFORMATIVE:** The developer/applicant will be expected to enter into a S278/S38 Agreement with the Highway Authority before commencement of works hereby approved.
- 3. INFORMATIVE:** The applicant should note that under the terms of the Wildlife and Countryside Act (1981) and the Habitats Regulations (2010) it is an offence to disturb or harm any protected species, or to damage or disturb their habitat or resting place. Please note that this consent does not override the statutory protection afforded to any such species. In the event that your proposals could potentially affect a protected species you should seek the advice of a suitably qualified and experienced ecologist and consider the need for a licence from Natural England prior to commencing works. Please see Natural England's website for further information on protected species.
- 4.** Please be advised that nothing in this permission shall authorise the diversion, obstruction, or stopping up of any right of way that crosses the site.
- 5.** The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on land outside their control. If such works are required it will be necessary for the applicant to obtain the landowners consent before such works commence.

If you intend carrying out works in the vicinity of the site boundary, you are also advised that it may be expedient to seek your own advice with regard to the requirements of the Party Wall Act 1996.

70 **PL/2022/03938 - Plot D2, Land at Kingdom Avenue, Westbury**

Public Participation:

- Alan Siviter – Planning Agent – spoke in support of the application

David Cox, Senior Planning Officer introduced the report which recommended that planning permission be approved, subject to conditions and informatives, as detailed in the report, for the construction and operation of a 7.5mw gas peaking generation plant, to include an electrical substation, gas kiosk, gas engines, access, CCTV, lighting and associated works (Resubmission of 20/10440/FUL considered by the Committee on 9 March 2022). The Committee also welcomed Brett Warren – Senior Environmental Health Officer who commented on air quality issues.

The officer advised that the key issues for the Committee to consider included the Principle of Development, supporting energy supply and impact on climate change/carbon neutrality, environmental impacts (especially air quality), neighbouring impacts, highway impacts, impact upon the setting of a local heritage asset, flood risk and ecology impacts.

The officer referred to a legal opinion from Christopher Boyle QC, which was published on the Council's website in Supplement 1. The officer also acknowledged that the burning of gas to fuel this proposed power plant facility would increase the level of air pollution relatively close to an area that has recorded exceedances of the national objective for nitrogen dioxide (NO₂). However, following lengthy negotiations with the applicant and their appointed consultants, and direct engagement with colleagues within the Council's Public Protection team, planning officers are satisfied with a combination of planning conditions and a planning obligation to secure a developer contribution, mitigation measures would substantively reduce the environmental effects pursuant to noise and air pollution – to enable the application to be compliant with the adopted Wiltshire Core Strategy Core Policies 55 and 57 and with the National Policy Statement for England and the National Planning Policy Framework.

In addition, officers also fully acknowledge that whilst there is a long-term ambition to reduce reliance on fossil fuels and reach a position of carbon neutrality by 2050, the use of fossil fuels in the energy mix remains an essential and viable option to meet peak electricity demand. The use of fossil fuel for power generation is supported by the Government and recent appeals evidence that gas-fired power generation facilities form part of the energy supply mix. They are not obsolete, and in this particular case, the proposal is not considered contrary to national or local planning policy, and consequently,

officers recommend that members endorse the recommendation to approve the application subject to conditions and informatives.

In response to technical questions asked by the Committee, along with Cllr Matthew Dean, local member, the officer indicated that it was not known whether a local air management quality area existed for a similar application in East Devon that was granted on appeal by the appointed planning inspector; the blend of 20% hydrogen into the natural gas distribution networks was not appropriate for this application; the calculation for a required financial contribution should read 0.026 / 1.2; the Council's Carbon Team had been consulted on the application and they did not raise any objections, air quality issues in the vicinity of the application site would be monitored with diffusion tubes and levels analysed; it was confirmed that the application should be considered as a new application and decisions made accordingly. Any refusal would warrant the employment of an expert to defend a refusal at appeal. Officers also confirmed that the improvements to technology allowed for a 30% reduction in combustion flow out of the flue;

Members of the public then had the opportunity to present their views, as detailed above.

The unitary division member, Cllr Matthew Dean spoke in objection to the application. Cllr Dean commented on the application site being on the boundary of his division and the division of Cllr Wickham; the poor air quality levels in Westbury and the impact of the current transport infrastructure; the high mortality rate in Westbury from cardio vascular disease and cancer; the ineffective air management zones and air quality management; the expectation of residents that air quality would improve; he was unconvinced by the comments by Public Protection; the expected costs of traffic optimisation measure may not be available due to backlogs; the obligation on the Committee to refuse the application on the same grounds as the previous application; felt that this was the wrong application in the wrong place.

So that the Committee had something to debate Cllr Suzanne Wickham proposed a motion to refuse the application, with reasons in relation to the cumulative impact on air quality in Westbury. This was seconded by Cllr Mike Sankey.

A debate followed where Members commented on the cumulative impact of cars driving through Westbury; concern about defending a refusal at appeal.

The motion to refuse the application was lost one vote for the refusal, six against the refusal and two abstaining. A further motion to grant the application with conditions and informatives as set out in the report was proposed by Cllr Trevor Carbin. This was seconded by Cllr Andrew Davies.

At the conclusion of the debate, it was

Resolved:

That the committee delegates authority to the Head of Development Management to grant planning permission subject to the planning conditions and informatives listed below following the completion of a s106 legal agreement to secure a £15,120.00 developer contribution towards the cost of air quality mitigation.

Planning 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 approved shall be for a temporary period of 25 five years, which shall begin when any part of the gas peaking generation plant is first operated. Prior to the end of the temporary period all the buildings, structures and plant forming the development shall be removed, and the land restored to its former condition within 6 months, in accordance with a scheme of work that shall first have been submitted to and approved in writing by the local planning authority.**

If the site ceases to be used for electricity generation within the 25-year temporary period, all the buildings, structures and plant hereby permitted shall be removed, and the land restored to its former condition within 6 months of its last use, in accordance with a scheme of work that shall first have been submitted to and approved in writing by the local planning authority.

REASON: In the interests of the visual amenities of the area.

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

Covering letter, Planning Statement, Site Location Plan, Existing Site Plan, Proposed Site Plan, CCTV Elevation Plan, Gate and Fence Elevation Plan, Gas Kiosk Plan, Electrical Sub-Station plan, Oil Tank Plan and Elevations, Proposed Access Junction Layout Plan, Gas Engine Elevation with Stack Plan, Transformer Details, Gas Engine Plan and Isometric View, Electrical Substation Elevation Plans, Swept Path Analysis Plan;

Air Quality Assessment, Noise Assessment (dated November 2020), Tetra Tech 784-A118713 Statement dated 12 May 2021, J420 SuSi Container Concept Review;

Ecological Assessment (dated 13 November 2020), Bio-diversity Enhancement Strategy (with updated bat and bird box site plan) –

dated 20 October 2021; Construction Management Plan and Heritage Assessment - All received 20 May 2022

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

- 4. Prior to first operation the noise mitigation as set out in the report produced by *Tetra Tech dated 12 May 2021 (Ref 784-A118713)* and accompanying document titled *J420 SuSi Container Concept Review* shall be implemented in full so as to reduce the specific noise from the generators to be no more than 55 dBA measured at 10m distance as measured by a sound level meter in accordance with measurement method BS EN ISO 3744: 2010. In addition, the stated noise mitigation shall be maintained as such in perpetuity (or for the lifetime of the use of the generators, and that any replacement generators have the same silencers applied and be subject to the same noise mitigation).**

REASON: In the interests of protecting neighbouring uses and amenity from potentially adverse levels of noise

- 5. The development hereby approved shall not commence until additional information to support the Construction Traffic Management Plan has been submitted to the Council and obtained its written approval pursuant to the following:**
 - a. A site plan detailing the parking of vehicles of site construction contractors, site operatives and visitors;**
 - b. Loading and unloading of plant and materials;**
 - c. Storage of plant and materials used in constructing the development;**
 - d. Full details of wheel washing facilities;**
 - e. Full details of Measures to control the emission of dust and dirt during construction;**
 - f. Submission of pre-condition photographic surveys of the adjacent highway;**
 - g. The applicant should contact the Wiltshire Council Area Highway office to agree and arrange a scheme of no waiting cones to be placed on the Public Highway in relation to 18m HGV low loader / crane deliveries, in accordance with the swept path analysis (appendix 1).**

Thereafter, the agreed details and the Construction Traffic Management Plan dated November 2020 shall be adhered to throughout the construction period.

Within 1 month of the development being brought into first use, post-condition photographic surveys of the adjacent highway shall be submitted to, and approved in writing by the local planning authority.

REASON: To minimise detrimental effects to the neighbouring amenities, the amenities of the area in general, detriment to the natural environment through the risks of pollution and dangers to highway safety, during the construction phase.

NOTE: Pursuant to requirement f) listed above, the applicant should note that the Highway Authority will pursue rectification of any defects identified by the highway condition survey which can be attributed to the site construction traffic under the provision of S59 of the Highways Act.

6. No part of the development hereby permitted shall be first brought into use until the access, turning area and parking spaces have been completed in accordance with the details shown on the approved plans.

REASON: In the interests of highway safety

7. No part of the development shall be first brought into use, until the visibility splays as shown on the approved proposed access junction layout plan (providing 2.4m x 43m visibility) have been provided with no obstruction to the visibility at or above a height of 0.6m above the nearside carriageway level. Thereafter, the visibility splays shall be maintained free of obstruction at all times.

REASON: In the interests of highway safety.

8. Prior to the development hereby permitted first being brought into use, provision shall be made within the site for the disposal of surface water so as to prevent any surface water discharge onto the public highway.

REASON: In the interests of Highway safety

9. The development hereby permitted shall not be first brought into use until the proposed fencing to fully enclose the site has been erected on site and shall be maintained as such in perpetuity.

REASON: In the interests of site security and safety.

10. The development shall be carried out in strict accordance with the Ecological Assessment Report (produced by Avian Ecology, dated 13 November 2020)

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

11. No external lighting shall be installed on site until full details of the new lighting, including specification and application and lux levels

have been submitted to and approved by the Local Planning Authority in writing. Any such submission should be informed by the ecological conditions and how any proposed lighting would impact bat species and habitat.

REASON: To safeguard bats and their habitat.

12. The development hereby permitted shall not be first brought into use, until the bat and bird boxes as detailed within the Biodiversity Enhancement Strategy and as shown within '*Figure 1 bird and bat box locations plan*', have been installed on site and thereafter, are retained and maintained for the entirety of the 25-year temporary permission as set out within condition 2.

REASON: In the interests of providing biodiversity betterment and supporting bat and bird habitat.

13. The site shall not be used for the generation of electricity for more than 3,000 hours in any 12-month period. The operator shall maintain a record for all the hours of using the onsite facility and generator runtimes, and the operator shall make this available to the local planning authority upon request.

REASON: To ensure the creation/retention of an environment free from intrusive levels of noise and activity in the interests of the amenity of the area.

14. No more than 5 generators, each with a maximum specification of up to 1.5MW engines, shall be installed and operated with the site facility.

REASON: To define the terms of the development Planning

Informatives:

1. The application involves creation of a new vehicle access. 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 or visit their website at <http://wiltshire.gov.uk/highways-streets> to make an application.

2. The applicant should contact the Wiltshire Council Area Highway office (central) (01225 712810) / centralhighways@wiltshire.gov.uk to arrange a scheme of 'no waiting' cones to be placed on the Public Highway in relation to 18m HGV / crane deliveries, in accordance with the swept path analysis (appendix 1).

71 **Urgent Items**

There were no Urgent Items.

(Duration of meeting: 3.00 - 7.35 pm)

The Officer who has produced these minutes is Stuart Figini, Senior Democratic Services Officer of Democratic Services, direct line 01225 718221, e-mail stuart.figini@wiltshire.gov.uk

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