

AGENDA

Meeting: Southern Area Planning Committee
Place: Alamein Suite, City Hall, Salisbury
Date: Thursday 28 January 2010
Time: 6.00 pm

Please direct any enquiries on this Agenda to Pam Denton, Senior Democratic Services Officer, of Democratic and Members' Services, County Hall, Bythesea Road, Trowbridge, direct line (01225) 718371 or email pam.denton@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 Brian Dalton	Cllr G Jeans
Cllr Tony Deane	Cllr Ian McLennan
Cllr Christopher Devine	Cllr Ian West
Cllr Mary Douglas	Cllr Fred Westmoreland
Cllr Jose Green	Cllr Graham Wright
Cllr Mike Hewitt	

Substitutes:

Cllr Ernie Clark	Cllr Leo Randall
Cllr Russell Hawker	Cllr Paul Sample
Cllr Bill Moss	Cllr John Smale
Cllr Christopher Newbury	

AGENDA

Part I

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

1. **Apologies for Absence**

2. **Minutes** *(Pages 1 - 8)*

To approve and sign as a correct record the minutes of the meeting held on 10 December 2009 (copy herewith).

3. **Declarations of Interest**

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

4. **Chairman's Announcements**

5. **Public Participation**

Members of the public who wish to speak either in favour or against an application on this agenda are asked to register in person no later than 5:50pm on the day of the meeting.

The Chairman will allow up to 3 speakers in favour and up to 3 speakers against an application. Each speaker will be given up to 3 minutes and invited to speak immediately prior to the item being considered. The rules on public participation in respect of planning applications are detailed in the Council's Planning Code of Good Practice.

6. **Proposed Diversion of Tisbury Footpaths 65 and 69 at New Wardour Castle** *(Pages 9 - 22)*

To consider the attached report.

7. **The Wiltshire Council [Sheet SU 13 SE] Parish of Winterbourne Rights Of Way Modification Order No. 14 2009 - Winterbourne 30 and 18 (Part)**

(Pages 23 - 52)

To consider the attached report.

8. **Planning Applications** *(Pages 53 - 166)*

To consider and determine planning applications in the attached schedule.

9. **Land off Hindon Lane, Tisbury - Outline Application S/2008/0779 for Mixed Use Development of Land to Comprise Around 90 Dwellings and 3,800 Square Metres of B1 Business Floorspace (Including Associated Highway Infrastructure) and Landscaping** *(Pages 167 - 256)*

To consider the attached report.

10. **Planning Appeals** *(Pages 257 - 258)*

To receive details of completed and pending appeals (copy herewith).

11. **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

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SOUTHERN AREA PLANNING

MINUTES OF THE SOUTHERN AREA PLANNING COMMITTEE MEETING HELD ON THURSDAY 10TH DECEMBER 2009 AT 6.00 PM, AT CITY HALL, SALISBURY

Present:

Councillor B Dalton, Councillor T Deane, Councillor C Devine, Councillor J Green, Councillor M Hewitt, Councillor G Jeans, Councillor I McLennan, Councillor J Smale, Councillor F Westmoreland (Chairman), Councillor G Wright.

82. APOLOGIES

Apologies for absence were received from Cllr M Douglas (substituted by Cllr J Smale) and Councillor I West.

83. MINUTES

The minutes of the meeting held on 19th November 2009 were confirmed as a correct record and signed by the Chairman.

84. CHAIRMANS ANNOUNCEMENTS

The Chairman reminded members of the committee that the next meeting would be on 7th January 2010.

The Chairman requested that all substitutes be sent a copy of the agenda.

85. DECLARATIONS OF INTEREST

Councillor J Smale declared a personal interest in Item 6 - The Wiltshire Council (Sheet SU 02 NW)(Broad Chalke 43 The Cut) Rights Of Way Modification Order No 5 2009 – as he knows Mr Hemingsley who owns part of the path.

Councillor Devine declared a personal interest in Item 9 as he is a member of Southern Area Board.

86. THE WILTSHIRE COUNCIL (SHEET SU 02 NW)(BROAD CHALKE 43 THE CUT) RIGHTS OF WAY MODIFICATION ORDER NO 5 2009

Public Participation:

Mr J Kot – Spoke in objection to the application
Mr D Blanchard - Spoke in objection to the application
Reverend J Low - spoke in support of the application.
Mr J Gooden (Broad Chalke Parish Council) - spoke in support of the application.

The committee considered a report from the Director of Transport, Environment and Leisure setting out details of an objection received to the making of an Order under Section 53(3) of the Wildlife and Countryside Act 1981 to add a Footpath to the Definitive Map and Statement for the Salisbury and Wilton Rural District Council Area dated 1953.

Resolved:

That the Wiltshire Council (Sheet SU 02 NW)(Broad Chalke 43 – The Cut) Rights of Way Modification Order No 5 2009 be submitted to the Secretary of State for Environment, Food and Rural Affairs, together with the objection letter and with the recommendation that the Order be confirmed as made.

87. PLANNING APPEALS

The committee received details of the following appeals:-

Decision

S/2008/1611 – Little Ridge, Southampton Road, Alderbury – Allowed – Committee decision.

Pending

S/2009/1052 – Pine Lodge Cottages, Mesh Pond, Downton – Delegated Decision.

88. S/2009/1473 - 5 Belle Vue Road, Salisbury, Sp1 3yd - Change Of Use From Storage Building Into A Domestic Residence Including Remove Existing Roof And Reforming With Increased Pitch And Raised Ridge And Rebuilding Front Façade

Public Participation:

Mr S Hoare – spoke in objection to the application

Mrs Sheldrake – spoke in support of the application

Resolved

(A) Following completion of a unilateral undertaking, whereby a commuted sum is paid towards the provision of off-site open space in accordance with saved policy R2 of the Salisbury District Local Plan, within one month, then planning permission is **granted** for the following reasons:

The proposal would make efficient use of land in an area where the principle of residential development is acceptable due to the site's sustainable location and previously developed nature. On balance it is considered that the proposed alterations, including the rebuilding of the front wall and raising the roof, would be appropriate to the character of the area. Subject to conditions, there would be no significant adverse impacts to the residential amenities of surrounding property. Given accessibility to the town centre and public transport, and existing controls upon on-street parking, it is considered that the lack of off-street parking provision is acceptable and would not adversely affect highways safety. The development would therefore accord with the development plan and Government guidance, having particular regard to saved Local Plan policies G1, G2, D2, H8, CN11, TR11, TR14, R2 and the aims and objectives of PPS1, PPS3 and PPG13.

(B) 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 Section 51 (1) of the Planning and Compulsory Purchase Act 2004.

2) This development shall be in accordance with the amended drawing[s] ref: 0480/02 Rev. D deposited with the Local Planning Authority on 04/12/09.

Reason: For the avoidance of doubt.

3) Before development is commenced, a schedule of materials and finishes, and, where so required by the Local Planning Authority, samples of such materials and finishes, to be used for the external wall[s] and roof[s] of the

proposed development shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: To secure a harmonious form of development.

Policy: G2, D2

4) No development shall commence on site until details of the design, external appearance and height of the means of enclosure to the garden boundary have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details prior to the development being occupied.

Reason: In the interests of residential amenity and privacy.

Policy: G2

5) No works shall commence on site until details of the proposed rooflights (including size, manufacturer and model number) have been submitted to and approved in writing by the Local Planning Authority. The new rooflights shall be of a design which, when installed, do not project forward of the general roof surface. The works shall be carried out in accordance with the approved details.

Reason: To secure an appropriate quality finish in the interests of the character and appearance of the area.

Policy: G2, D2

6) The apex window in the east elevation shall be glazed with obscure glass only and permanently fixed shut prior to the first occupation of the development hereby permitted and shall be permanently maintained as such at all times thereafter.

Reason: In the interests of residential amenity and privacy.

Policy G2

7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking or re-enacting or amending that Order with or without modification), no window or rooflight, 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.

Policy: G2

8) Notwithstanding the provisions of Classes A to E of Schedule 2 (Part 1) to the Town and Country Planning (General Permitted Development) Order 1995, (or any Order revoking and re-enacting that Order with or without modification), there shall be no extensions to the dwelling nor the erection of any structures within the curtilage unless otherwise agreed in writing by the Local Planning Authority upon submission of a planning application in that behalf.

Reason: In the interests of visual and neighbouring amenity.

Policy: G2

9) No development shall commence on site (including any works of demolition), until a Construction Method Statement, detailing how access to the pedestrian alleyway will be maintained during the demolition/construction works, has been submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The development shall not be carried out otherwise than in accordance with the approved construction method statement without the prior written permission of the Local Planning Authority.

Reason: To ensure access can be maintained to the rear garden areas situated off the alleyway in the interests of neighbouring amenity.

Policy: G2

10) No construction or demolition work shall take place on Sundays or public holidays or outside the hours of 0800 to 1800 weekdays and 0800 to 1300 on Saturdays. This condition shall not apply to the internal fitting out of the buildings.

Reason: In the interests of neighbouring amenity.

Policy G2

Informatives:

1. APPROVED PLANS

This decision relates to documents/plans submitted with the application, listed below. No variation from the approved documents should be made without the prior approval of this Council. Amendments may require the

submission of a further application. Failure to comply with this advice may lead to enforcement action which may require alterations and/or demolition of any unauthorised buildings or structures and may also lead to prosecution.

Plan Ref....0480/02 Rev D....
Received....04.12.09....

Date

2. RESIDENTS PARKING AND ZONES PERMITS

The applicant/owner is advised that the occupants of the new dwelling hereby granted planning permission may not be entitled to parking permits under the residents parking scheme operating in this area. You are advised to contact Parking Services 01722 434735 should you require any further information regarding the issuing of residents parking permits by the Council.

3. PARTY WALL ACT

It is noted that the development hereby approved involves construction on or near a boundary with an adjoining property. The applicant is advised that this planning permission does not authorise any other consent which may be required from the adjoining landowner or any other person, or which may be required under any other enactment or obligation.

(C) Should the timescale in (A) above not be complied with that the decision be delegated to Area Development Manager to determine.

89. OLD SARUM – REQUEST FOR VARIATION TO PROVISION OF S106 AGREEMENT

Public participation:

Mr R Champion (Laverstock and Ford Parish Council) – spoke in objection to the recommendation.

The committee considered a report which requested a variation to Schedule 1 Part I clause 5.2 and Schedule 2 part 1 of the S106 Agreement for the Old Sarum development to provide:

1. A delay in the payment of the second secondary education contribution owing to the slow build rate at the site
2. A fixed date for the delivery of the primary school, being September 2011.

A motion to open the school in September 2010 with a fallback date of December 2010 opening in January 2011 was proposed. Following the vote in which the Chairman used his casting vote, the motion failed.

Resolved:

That option 1, as detailed in the report, be accepted and the S106 agreement be varied to specify:

That the primary school shall be completed and transferred to the Council by September 2011.

The second secondary education payment be made no later than September 2011 (but indexed from the original payment date).

89. PROGRESS REPORT ON CURRENT SECTION 106 AGREEMENTS

The committee received an update report on the S106 agreements relating to the MOD land at Old Sarum and Hindon Lane

Resolved:

That the report be noted.

PART 2

Items considered whilst the public were not entitled to be present

None

Chairman
7 January 2010

Produced by Pam Denton, Democratic Services, Direct Line 01225 718371
pam.denton@wiltshire.gov.uk

Press enquiries to Communications, Direct Line 01225 713114/713115

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WILTSHIRE COUNCIL

SOUTHERN AREA PLANNING COMMITTEE
28 JANUARY 2010

PROPOSED DIVERSION OF TISBURY FOOTPATHS 65 AND 69 AT NEW WARDOUR CASTLE

Purpose of Report

1. To:
 - (i) Consider and comment on twenty objections received to an application proposing the diversion of Tisbury Footpaths 65 and 69 under Section 119 of the Highways Act 1980.
 - (ii) Recommend that the application for an Order be refused on the grounds that the proposed diversions do not meet the requirements of Section 119 of the Highways Act 1980.

The Proposed diversions are shown on the plan labelled '**Appendix A**'.

Background

2. An application to divert Tisbury Footpaths 65, 66, 69 and 70 was submitted by Mr. Jeremy Martin of Wardour Estates Ltd. on 13 November 2003. Mr. Martin considered that existing footpaths were confusing and duplicated in places, that one section passed through two private gardens and within a few yards of the castle's main door and that the Wessex Ridgeway route lacked continuity here. The proposed diversions contained in the original application were different, though not entirely dissimilar, to the ones currently being considered. The original proposals are shown on the plan labelled '**Appendix B**'.
3. An initial public consultation was undertaken in July and August 2004. During this time nineteen objections to the proposed diversions were received.
4. Officers considered that the case for diverting the paths was weak and that there could be a costs application made against the Council as the Order Making Authority if there were no grounds, or only weak ones, for proceeding.
5. Officers held a site meeting with a representative of Wardour Estates in May 2006 to discuss the diversion of the routes but officers found it impossible to suggest diversions that could take into account points raised by objectors.
6. Wiltshire Council received a letter in February 2009 from the agents for Futuregroom Ltd., the owners of Wardour Court, a residential development within the grounds of New Wardour Castle in close proximity to Footpath 65 (as shown on **Appendices A and B**), enquiring about the application to divert paths and supporting the diversion of Footpaths 65, 66, 69 and 70 as this would remove the intrusion of privacy experienced by the owners of Wardour Court.

7. Officers reconsidered the original application and noted that the main basis of the objections received in 2004 had been the diversion of Footpath 66 (which leads across the front of Wardour Castle). An altered scheme of diversions was suggested to Mr. Tuersley of Wardour Estates which did not affect Footpath 66 or Footpath 70 and affected a shorter part of Footpath 69 (see **Appendix A**).
8. In September 2009 Mr. Tuersley confirmed that he wished to proceed as suggested and an initial consultation, based on the changes proposed in **Appendix A**, was held from the end of September 2009 to 23 October 2009. Mail delivery during this time was affected by industrial action and the period was extended. By the end of October ten objections had been received. A further ten objections were received during November 2009.
9. The twenty objections made it clear that the second scheme of diversions in **Appendix A** was not an acceptable compromise for Footpath 65 although officers considered that it may be possible to divert that part of Footpath 69 (shown in **Appendix A**) to the east of Wardour Castle.
10. Officers suggested to Mr. Tuersley that the diversion of Footpath 69 may be achievable and enquired whether he wished to proceed.
11. In a letter dated 5 November, 2009 Mr. Tuersley wrote stressing that there was little value in just diverting Footpath 69 as his key concern was the:

“re-routing of Footpath 65 because this passes through the private gardens of at least two properties (Wardour Court and the Temple House). We should be most grateful therefore if you would make an Order to that effect and, if necessary, the matter can proceed to public inquiry.”

Main Considerations for the Council

12. Wiltshire Council has the power to make Orders to divert public paths under Section 119 of the Highways Act 1980. The Order may be made in the interest of the landowner but can only be confirmed if the new path or way will not be substantially less convenient to the public, regard having been made of the effect of the diversion on the public enjoyment of the path or way as a whole.
13. The Council has received twenty objections to the proposed Order and extracts from these objections are shown in **Appendix C**.
14. Section 119(1) of the Highways Act 1980 states that:

“Where it appears to a Council as respect a footpath, bridleway or restricted byway in their area (other than one that is a trunk road or a special road) that, in the interests of the owner, lessee or occupier of land crossed by the path or way or of the public, it is expedient that the line of the path or way, or part of that line, should be diverted (whether on to land of the same or of another owner, lessee or occupier), the Council may, subject to subsection (2) below, by order made by them and submitted to and confirmed by the Secretary of State, or confirmed as an unopposed order –

 - (a) *create, as from such date as may be specified in the order, any such new footpath, bridleway or restricted byway as appears to the council requisite for effecting the diversion, and*

- (b) *extinguish, as from such date as may be [specified in the order or determined] in accordance with the provisions of subsection (3) below, the public right of way over so much of the path or way as appears to the Council requisite as aforesaid.*

An Order under this section is referred to in this Act as a “public path diversion order.”

15. In *Hargrave v Stroud DC* [2002] EWCA Civ 1281, Schieman L.J. stated that:

“On the face of the subsection therefore the authority has discretion as to whether or not to make an order. I do not consider that the mere fact that it is expedient in the interests of the owner that the line of the path should be diverted means that Parliament has imposed on the authority a duty to make such an order once it is satisfied that this condition precedent has been fulfilled.”

16. Subsection (6) (see paragraph 17 below) sets out factors which are to be taken into account at the confirmation stage. However, it has been held that the Authority is entitled to take these factors into account at the Order making stage. In *Hargrave v Stroud* (above), Schieman L.J. held that:

“...the authority faced with an application to make a footpath diversion order is at liberty to refuse to do so. In considering what to do the Council is, in my judgment...entitled to take into account the matters set out in s.119(6). It would be ridiculous for the Council to be forced to put under way the whole machinery necessary to secure a footpath diversion order where it was manifest that at the end of the day the order would not be confirmed.”

17. Subsection (6) states:

“The Secretary of State shall not confirm a public path diversion order, and a Council shall not confirm such an order as an unopposed order, unless he or, as the case may be, they are satisfied that the diversion to be effected by it is expedient as mentioned in subsection (1) above, and further that the path or way will not be substantially less convenient to the public in consequence of the diversion and that it is expedient to confirm the order having regard to the effect which –

- (a) *The diversion would have on public enjoyment of the path or way as a whole;*
(b) *The coming into operation of the order would have as respects other land served by the existing public right of way; and*
(c) *Any new public right of way created by the order would have as respects the land over which the right is so created and any land held with it”.*

18. It is not denied that the diversions, which are the subject of this report, are expedient in the interests of the landowner for the purposes of Section 119 (1). However, this is not the only test which the Council may take into account at the Order making stage. It is clear from the responses which have been received to the consultation that the proposed diversions fail the test contained in subsection (6)(a) – i.e., that the diversions would have a detrimental effect on public enjoyment of the path or way as a whole. In this particular case the grounds for objection are strong, with the paths affording unique views of New Wardour Castle and its grounds and gardens.

19. A number of the objections also claim that the proposed diversion of Footpath 65 fails the test of substantial convenience contained in subsection (6). In *Young v Secretary of State for Food and Rural Affairs* [2002] EWHC 844 (Admin), Turner J. said:

“...In my judgment the expression ‘substantially less convenient to the public’ is eminently capable of finding a satisfactory meaning by reference to consideration of such matters as the length, difficulty of walking and purpose of the path. Those are features which readily fall within the presumed contemplation of the draftsman of this section as falling within the natural and ordinary meaning of the word ‘convenient’.”

20. In this instance, the proposed route of Footpath 65 is longer and would proceed through woodland, which would need some clearance work to allow unhindered use. The proposed diversion of Footpath 69 would see the route shortened, and would change the official route to reflect the route which is actually being used ‘on the ground’.

Environmental Impact of the Recommendation

21. There would be no environmental impact in refusing to make an Order diverting Footpaths 65 and 69. If an Order were to be made, clearance work in woodland to remove vegetation would be necessary on both Footpaths 65 and 69. The vegetation would require clearance to allow a two metre wide footpath.

Risk Assessment

22. There are no risks associated with refusing to make an Order diverting Footpaths 65 and 69. If an Order were to be made and confirmed, diverting Footpath 65, users would have to cross a car park and the driveway to Wardour Court, exposing them to vehicular traffic and the associated risks.

Financial Implications

23. If the application for an Order is refused, Wiltshire Council will not incur any costs.
24. If the Order is made, not objected to and confirmed by the Council as an unopposed Order, the applicant will pay the costs.
25. If the Order is made and objected to, the Order may be abandoned by the Council. The Council would incur costs for advertising the Order which, combined with officer time, is estimated to be in the region of £1,000.
26. If the Order is made the Council may decide to support it, even if objections are received. The Order would be sent to the Secretary of State for determination which would be likely to result in a Public Inquiry being held, the full process costing the Council up to £10,000.

Options Considered

27. That:
- (i) The application for an Order is refused.
 - (ii) The Order is made, advertised and abandoned as incapable of confirmation.

- (iii) The Order is made, followed by a referral to the Secretary of State for determination at a Public Inquiry with the recommendation that it be confirmed.

Recommendation

28. That the application for an Order, diverting Tisbury Footpaths 65 and 69 as shown on plan '**Appendix A**', be refused.

Reasons for Recommendation

29. The proposed diversions fail the test contained in Section 119(6)(a) of the Highways Act 1980.

GEORGE BATTEN

Corporate Director
Department for Transport, Environment and Leisure

Report Author
Sally Madgwick
Rights of Way Officer

The following unpublished documents have been relied on in the preparation of this Report:

Correspondence from objectors and the landowner/his agent

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Tisbury 65 & 69 2009 Consultation Plan

Appendix A

Footpath to be added:



Footpath to be deleted:



Unaffected footpath:



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George Batten, Corporate Director, Transport, Environment and Leisure, Wiltshire Council

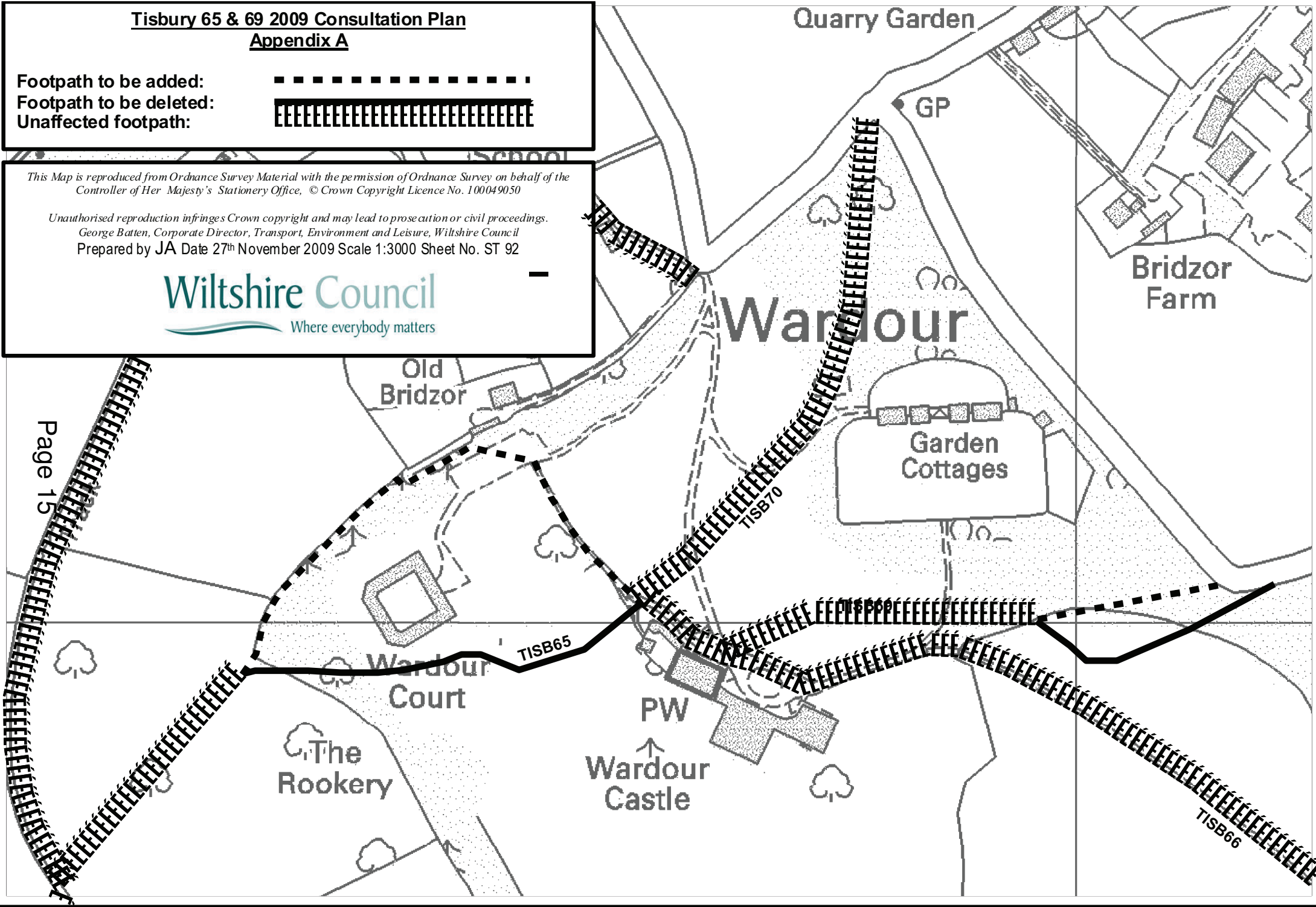
Prepared by JA Date 27th November 2009 Scale 1:3000 Sheet No. ST 92

Wiltshire Council



Where everybody matters

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Tisbury 65, 66, 69 & 70 2004 Consultation Plan

Appendix B

Footpath to be added: - - - - -

Footpath to be deleted: [Thick solid line]

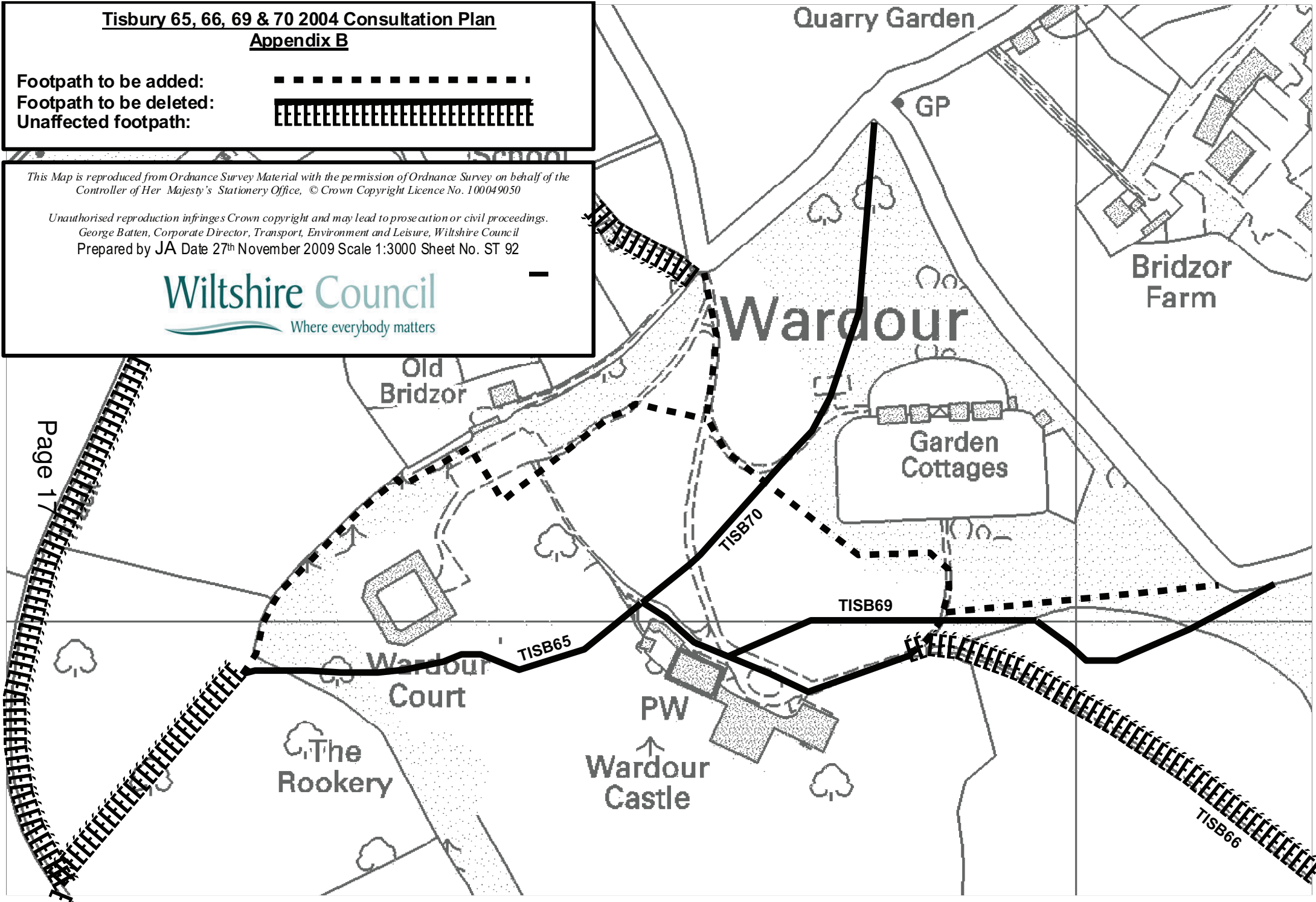
Unaffected footpath: [Thin solid line]

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George Batten, Corporate Director, Transport, Environment and Leisure, Wiltshire Council

Prepared by JA Date 27th November 2009 Scale 1:3000 Sheet No. ST 92



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**EXTRACTS FROM TWENTY OBJECTIONS RECEIVED TO THE PUBLIC
CONSULTATION ISSUED ON 25 SEPTEMBER 2009**

(1) The local Member for Tisbury comments:

"[Footpath 65] – Those people who know about footpaths say it would be very sad if this route were to be lost, apparently some 7 years ago a similar application was made and it was REFUSED. The same arguments apply and therefore this request should be refused. Personally I think it would be sad if this old route were to be lost to the present ramblers and future generations. I doubt whether the reasons for changing the route, which we have not seen, comply with the requirements of the Act."

"[Footpath 69] – ...I cannot see any reason for changing this footpath."

(2) An objector comments:

"Thank you for sending me these proposals, which I find unacceptable, particularly any diversion of FP 65 after it enters the grounds of New Wardour Castle, passing the newly built Wardour Court...the path has always been known locally as the Rookery Path to the Temple Garden by the West Wing of the mansion. It gave access to All Saints Chapel in the West Wing, to local people walking from Donhead, for two centuries. The diversion proposed is almost twice as long and has less interest and amenity than the existing right of way, which I have used for 50 years."

(3) Tisbury Parish Council comment:

"There is little concern with the proposed diversion of footpath 69; however, Footpath 65 is a completely different matter. This footpath has been used for generations of people from the Donhead area going to the Chapel at Wardour Castle and should not be diverted. It gives walkers access to the gardens to the west of New Wardour Castle that includes ancient statuary and views of the historic and rare quincunx – a circle of trees seeded in Victorian times. The proposed diversion is a much less interesting route. Diversions, it was agreed by all, should be for substantial reasons and not just for convenience of particular parties."

(4) The Footpath Officer to Tisbury Parish Council, comments:

"The diversion to footpath 69 is only a slight deviation from the original, therefore have no objections to this. Footpath 65 was historically used by people from the Donhead area to attend the Chapel at New Wardour Castle and should therefore be retained. It also gives walkers access to the gardens to the west of Wardour Castle which includes ancient atatory [sic] and also views of the historic and quite rare quincunx; i.e. circle of trees seeded in Victorian times so that they come up as one. The proposed diversion is also a much less interesting route."

(5) Objectors comment:

“My wife and I use this footpath [65] almost daily as we live in Wardour not far from New Wardour Castle. We use the footpath to visit friends who live on the estate, to walk our dog and to visit the castle and the chapel. I understand that this footpath has been in common use since the chapel was built in the late 1700’s and the network of paths around Wardour was used by local residents to attend the chapel services. It is one of the great charms of living in this community that there are such paths and that they can be freely used to access historic sites such as the New Wardour Castle and its chapel. It would be a real travesty if centuries of free access was curtailed...The proposed diversion to the north of Wardour Court not only runs through a rather unattractive strip of wood but also ends up in a carpark [sic] and storage area with many unsightly recycling bins. The present path allows the lovely views of the parkland and the western approaches to New Wardour Castle and eventually passes through the very beautiful Temple Garden. All this will be lost if the diversion takes [sic] place and it will double the distance from the park boundary to the chapel.”

(6) An objector comments:

“I wish to object to the proposals, especially the diversion of FP 65, which I and my family have walked regularly for over 40 years and I still do so almost weekly. I can see no reason whatever for diverting it.”

(7) An objector comments:

“I strongly object to this [diversion] happening. This footpath [65] has been in place for hundreds of years and was a direct route for Catholics from The Donheads to Wardour Chapel, and is steeped in history. I personally walk this way...several times a week as it is such a beautiful walk.”

(8) An objector comments:

“I would like to lodge an objection to the proposed Diversion of the ancient footpath [65]...As a family we have used that foot path for many years without causing any damage.which [sic] I believe mainly local people have likewise, mainly to enable [sic] to get to church services at wardour chapel.”

(9) An objector comments:

“I do not agree with either proposed diversion of the footpaths...I use the footpath [65] at least twice a week, and my wife and children use it frequently as well. If the footpath were to be diverted...it would be a much longer and less convenient route. “

(10) An objector comments:

“I have been walking footpaths 65 and 69 on a regular basis for over forty years with my sister and brother-in-law...and can see no reason for any diversion.”

(11) An objector comments:

"I have walked the paths around New Wardour Castle as we knew it in 50's ever since I was eight years old....I hear the path [65]...is going to be diverted. This will mean walkers have a longer route, and far less panoramic views of the parkland to the SE."

(12) An objector comments:

"I grew up in this area and often use this footpath when walking my dog and baby, the area is so beautiful and has so much history. It would be an incredible injustice to the area for the footpath [65] to be diverted away from the old Rookery which was originally the footpath from The Donheads to the Chapel at Wardour...So many places of AONB stature are being lost to the wilds and forgotten unnecessarily [sic]...such areas should be available for all to enjoy."

(13) Objectors comment:

"We understand that there has been a proposal to divert the footpath [65]...My wife and I would be unhappy for such a diversion to be approved – we regularly walk along this path, normally on a circular route which we make from our home..."

(14) An objector comments:

"I wish to object to the proposal to divert the footpath [65]...I have used this path since 1948 and the proposed diversion would considerably lessen the pleasure of using it in future."

(15) An objector comments:

"I am writing to object to the proposed diversion of the footpath [65]...I have been a frequent user of this footpath, since I came to live in this area in 1988. As treasurer of the Tisbury Footpath Club, I have described this route, for the booklet of local walks, connecting Old Wardour Castle with New Wardour to Donhead St Andrew, focussing on the historical interest, including the Temple Garden. I believe it would be a loss to walkers visiting the area to lose the opportunity not to be able [sic] to glimpse this magical spot...I believe the loss of this ancient route to walkers from being able to experience places of beauty and historical interest such as the Temple Garden, should be avoided when new sanitising buildings such as Wardour Court have already deprived walkers of a romantic and atmospheric experience."

(16) Objectors comment:

"We would like to object to a proposed diversion of the local footpath [65]...We live close to this area and use this footpath almost every day on our daily walks. It is an old path with beautiful views and is one of the reasons we moved to this area in the first place. Diverting it would mean confining walkers to a much more boring enclosed path which is twice as long."

(17) An objector comments:

"...this path [65] has been used for many, many years, (I myself use it every day, come rain or shine!)...I do hope that you will be able to keep our much loved footpath just where it is, as it is very much appreciated each and every time that it is walked – as I am sure, if you have been that way through the Temple Garden, you will understand."

(18) An objector comments:

"I was brought up in Wardour and request that you reject the request for a diversion. Currently walkers can view the Park and the Temple Gardens as they follow the historic route of the 'Rookery Path' as they go between Old Wardour and Westfield – as well as the Chapel – and this diversion would break the link with the past."

(19) Objectors comment:

"The old 'Rookery Path' which traverses the Temple Garden at Wardour Castle [65] is a jewel in the rights of way crown. As a footpath, it is as old as All Saints Chapel, to which it has provided a route from the Donheads for well over 200 years. Not only is it scenically beautiful but also one of the most long-established traditional routes in this parish...The footpath network around Wardour Castle, including the long-distance path, is of priceless value and it is of my opinion, my wife's and many others with whom we have discussed this matter, that only the most paramount reasons...should be considered to be sufficient to compromise it."

(20) An objector comments:

"The path [65] is a long-established means of access from Westfield Farm and cottages to the RC Chapel at Wardour Castle. To divert it as requested would greatly increase the walking distance from the stile at the entrance of the wood to the Chapel. As someone who has been living in Wardour since 1947 I strongly object to a quite unnecessary diversion of the path."

WILTSHIRE COUNTY COUNCIL

SOUTHERN AREA PLANNING COMMITTEE
28 JANUARY 2010

WILDLIFE AND COUNTRYSIDE ACT 1981

DEFINITIVE MAP AND STATEMENT FOR THE AMESBURY RURAL DISTRICT COUNCIL AREA 1952 AS MODIFIED UNDER THE PROVISIONS OF THE WILDLIFE AND COUNTRYSIDE ACT 1981

THE WILTSHIRE COUNCIL [SHEET SU 13 SE] PARISH OF WINTERBOURNE RIGHTS OF WAY MODIFICATION ORDER No. 14 2009

WINTERBOURNE 30 AND 18 (PART)

Purpose of Report

1. To:
 - (i) Consider and comment on objections received to the making of an Order under Section 53(3) of the Wildlife and Countryside Act 1981 to add a new Bridleway and record part of an existing footpath as Bridleway on the Definitive Map and Statement for the Amesbury Rural District Council Area 1952.
 - (ii) Recommend that the Order be submitted to the Secretary of State for Environment, Food and Rural Affairs for confirmation with the support of Wiltshire Council.

Description of the Route

2. The Order route joins points A, B, C and D on the Order Map (**Appendix 1**). The Order route starts at the south end of Figsbury Road (point A) following Winterbourne Footpath 18 under the railway bridge in a south-easterly direction for approximately 60 metres with a width of 3 metres to point B.
3. The route then follows a lane bounded by grass verges leading in a north-easterly direction for approximately 240 metres with a width of 3.6 metres to point C.
4. The route then leads in a south-easterly direction along a surfaced path bounded by a grass verge to the south-west and a chain link fence to the north-east for approximately 90 metres with a width of 3 metres to OS grid reference SU 17984, 34515. A location map is included as **Appendix 2**.

Background

5. An application was submitted on 7 October, 2007 by Mrs. Caroline Bingham to add a Bridleway to the Definitive Map and Statement for the Amesbury Rural District Council Area 1952, leading from Figsbury Road Railway Arch to the M.O.D. camp. The application was supported by sixteen witness statements.

6. The way is being claimed through 'Deemed Dedication' in accordance with Section 31 of the Highways Act 1980 which asserts that to be added to the Definitive Map as a bridleway it must be proved that there was 20 years uninterrupted bridleway use '*as of right*' leading up to the date that public rights over the way were first called into question. In this case the relevant twenty year period is from July 1986 to July 2006 when the route was barred by the erection of a barrier near Figsbury Road Railway Bridge.
7. A public consultation was undertaken in January 2008 and a representation against the application was received from the landowner. A representation from the Ministry of Defence indicated initial concern due to the military sensitivity of the area.
8. There were five representations supporting the application. Copies of all consultation responses are available in the **Members' Room** at County Hall, Trowbridge and at Planning Reception, 61 Wyndham Road, Salisbury.

Original Order Decision

9. An Order was not made on the grounds that there was insufficient user evidence to raise the presumption that the way had been dedicated as a public right of way and therefore did not warrant the making of an Order to add a public bridleway or public footpath to the Definitive Map and Statement. The applicant and consultees were informed of the decision on 22 May, 2008

Appeal

10. On 23 July, 2008 Wiltshire Council was notified by the National Rights of Way Casework Team, acting on behalf of the Secretary of State for the Department of Environment, Food and Rural Affairs, that the applicant had appealed on 16 July, 2008 against the decision not to make an Order.
11. The above notification of appeal was accompanied by further evidence of use, consisting of three new witness evidence forms and six letters, two of which had attached lists of horse riders from Hurdcott Livery Yard who were known to have used the route. One list had 26 names, the other had 41 names.
12. The Secretary of State commissioned an Inspector's report from the Planning Inspectorate the findings of which are attached (**Appendix 3**).
13. On 27 July, 2009 the Secretary of State, having considered the appeal, directed that an Order should be made and instructed Wiltshire Council to make an Order under s.53(2) of, and Schedule 15 to, the 1981 Wildlife and Countryside Act as proposed in the application of Ms Caroline Julia Bingham, dated 7 October, 2007.

Evidence of Use to Date (November 2009)

14. Twenty five witnesses have claimed to have used the route '*as of right*' (openly and without permission or without using force) during the relevant period. A user evidence summary including graphs is attached as **Appendix 4**.
15. Of the twenty seven witnesses that have submitted witness forms or substantial written correspondence, 20 have claimed to have used the way for horse riding, 17 for walking, 5 for cycling and 3 for driving MPV's.
16. As well as this first hand use, all of the witnesses have claimed to have seen others using the path by various means.

17. The frequency of claimed use is significant with four witnesses claiming to have used the route daily and 70% of all witnesses, who have submitted written evidence, claiming to have used it on at least a weekly basis.
18. The witnesses come not only from the Winterbournes but other surrounding towns and villages such as Gomeldon, Porton, Middleton, Pitton, Idmiston, Durrington, Amesbury and Salisbury, as well as from further afield. The body of submitted evidence taken as a whole amounts to uninterrupted and significant use by the public at large.
19. It is not unreasonable to assume that there has also been much other use of the way as it seems to be common knowledge that the field that is now in the camp to the north-east of point C on the Order map used to be the village football field.
20. Among the correspondence is a letter from a long-standing resident who lives very close to the route and, although not a horse rider himself, he states that it has been well used by equestrians and he often used the manure on his garden. This is further supported by two substantially long (41 and 27) lists of names of horse-riders from local stables who have used the route.
21. None of the witnesses, during the relevant 20 year period, have reported seeing any notice erected by the landowner that would have been sufficient to rebut the intention to dedicate, i.e. stating "No Public Right of Way", and the objectors have no evidence to the contrary.
22. The M.O.D. perimeter path is a physical continuation of the claimed route and, when open, it allows the public to continue to Gomeldon beyond the claimed route. The M.O.D. has stated the following regarding the extent of public use of its perimeter path, including horse-riding:

"...week-days a maximum would be 10 a day during the daylight hours, during the autumn and winter it is hardly used due to the restriction of daylight and closures due to training; it does pick up slightly during the weekends".
23. A copy of all the evidence is available in the **Members' Room** at County Hall, Trowbridge and at Planning Reception, 61 Wyndham Road, Salisbury.

The Making of the Order

24. An Order was made on the 11 August, 2009 to modify the Definitive Map and Statement for the Amesbury Rural District Council Area 1952, by adding Winterbourne bridleway 30 and recording the existing public footpath 18 (part).

Objections and Representations to Making the Order

25. There have been five objections to the making of the Order: four letters from residents and a short note from the landowner's legal representative.
26. The landowner's legal representative has so far only briefly stated two grounds of objection, whilst reserving the right to set out further grounds at the Inquiry. The grounds stated are that *"there is a clear indication by the landowner not to dedicate the right of way as evidenced by the erection of signs"* and *"that the public at large, do not use the right of way for the period claimed"*. Points of objection from the other letters are listed below.
 - There was a notice on the barrier stating that there was no access to the roadway.

- Increased use will encourage general nuisance, such as noise and disruption, vehicles parking nearby, dogs being let off leads leading to dog-mess problems, fly tipping and other parish problems that can only be sorted by civil law.
 - People from another parish will use it.
 - It would allow illegal vehicular access which could lead to it becoming a racetrack for cars and motorbikes therefore becoming dangerous for walkers.
 - Security and safety issues for elderly and retired people with undesirable people coming over the railway line onto local properties.
27. The M.O.D. state that they have no objection in principle.
28. There was a further letter of support for the Order from the applicant and six new witness evidence forms have now been submitted making a total of 25.
29. A copy of the objections is available in the **Members' Room** at County Hall, Trowbridge and at Planning Reception, 61 Wyndham Road, Salisbury.

Comments on the Objections

30. There has been no evidence submitted to prove that there were any notices erected and maintained by the landowner on or near the route during the relevant 20 year period sufficient to rebut the intention of dedication (see Highways Act 1980 s.31 in paragraph 36 below). Such notices must show that the route is not a public highway (*Rights of Way Law Review: November 2007: Section 6.3 Pg 117*).
31. Regarding the public at large using the way for the claimed period, there are now 24 user evidence forms indicating sufficient public use over the claimed route, 18 of these have claimed to have ridden horses. All of the witnesses claim to have seen others using the route, either on foot or cycling or riding a horse or by a combination of these types of use. There are also letters and lists of riders that have used local stables, although these lists in most cases only give first names of the riders and the names of their horses.
32. Issues such as security, nuisance, privacy, safety, illegal use and effects on the environment cannot be considered by the inspector in making the confirmation decision. Only evidence for and against 20 years uninterrupted use 'as of right' can be considered.
33. Most of these issues are discussed in more detail in the Inspector's Report attached as **Appendix 3**. (Note: six new user evidence forms have been submitted since the report was completed).

Main Considerations for the Council

34. The Council has a duty under Section 53 of the Wildlife and Countryside Act 1981 to keep the Definitive Map and Statement under continuous review.

Section 53(2)(b) states:

"as regards every definitive map and statement, the surveying authority shall: as from that date (the commencement date), keep the map and statement under continuous review and as soon as reasonably practicable after the occurrence, on or after that date, of any of those events, by order make such modifications to the map and statement as appear to them to be requisite in consequence of the occurrence of that event".

The events referred to in Section 53(2)(b) relevant to this case are set out below in Section 53(3)(c)(i) and (ii).

“the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows-

(i) that a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates, being a right of way to which this Part applies.

(ii) that a highway shown in the map and statement as a highway of a particular description ought to be there shown as a highway of a different description.”

35. The statute requires the Council to have regard to ‘*all other relevant evidence available to them*’. However, no documentary evidence has been discovered by the Council to support the application. Therefore, the application is solely reliant upon presumed dedication through use of the claimed route.

36. Dedication of a way as highway is presumed after public use for 20 years provided it satisfies the requirements of Section 31 of the Highways Act 1980. The Section is set out below:

(1) Where a way over any land, other than a way of such a character that use of it by the public could not give rise at common law to any presumption of dedication, has been actually enjoyed by the public as of right without interruption for a full period of 20 years, the way is to be deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it.

(2) The period of 20 years referred to in subsection (1) above is to be calculated retrospectively from the date when the right of the public to use the way is brought into question, whether by a notice such as is mentioned in subsection (3) below or otherwise.

(3) Where the owner of the land over which any such way as aforesaid passes –

(a) has erected in such a manner as to be visible by persons using the way a notice inconsistent with the dedication of the way as a highway; and

(b) has maintained the notice after the 1st January 1934, or any later date on which it was erected

the notice, in the absence of proof of a contrary intention, is sufficient evidence to negative the intention to dedicate the way as a highway.

(4) In the case of land in the possession of a tenant for a term of years, or from year to year, any person for the time being entitled in reversion to the land shall, notwithstanding the existence of the tenancy, have the right to place and maintain such a notice as is mentioned in subsection (3) above, so however, that no injury is done thereby to the business or occupation of the tenant.

- (5) *Where a notice erected as mentioned in subsection (3) above is subsequently torn down or defaced, a notice given by the owner of the land to the appropriate council that the way is not dedicated as highway is, in the absence of proof to a contrary intention, sufficient evidence to negative the intention of the owner of the land to dedicate the way as highway.*
- (6) *An owner of land may at any time deposit with the appropriate council-*
- (a) a map of the land on a scale of not less than 6 inches to 1 mile and*
 - (b) a statement indicating what ways (if any) over the land he admits to having been dedicated as highways;*
- and, in any case in which such a deposit has been made, statutory declarations made by that owner or by his successors in title and lodged by him or them with the appropriate council at any time –*
- (i) within ten years from the date of deposit*
 - (ii) within ten years from the date on which any previous declaration was last lodged under this section,*
- to the effect that no additional way (other than any specifically indicated in the declaration) over the land delineated on the said map has been dedicated as a highway since the date of the deposit, or since the date of the lodgment of such previous declaration, as the case may be, are, in the absence of proof of a contrary intention, sufficient evidence to negative the intention of the owner or his successors in title to dedicate any such additional way as a highway.*
- (7) *For the purpose of the foregoing provisions of this section, ‘owner’, in relation to any land, means a person who is for the time being entitled to dispose of the fee simple in the land; and for the purposes of subsections (5) and (6) above ‘the appropriate council’ means the council of the county, metropolitan district or London Borough in which the way (in the case of subsection (5)) or the land (in the case of subsection (6)) is situated or, where the land is situated in the City, the Common Council.*
- (7A) *Subsection (7B) applies where the matter bringing the right of the public to use a way into question is an application under section 53(5) of the Wildlife and Countryside Act 1981 for an Order making modifications so as to show the right on the definitive map and statement.*
- (7B) *The date mentioned in subsection (2) is to be treated as being the date on which the application is made in accordance with paragraph 1 of Schedule 14 to the 1981 Act.*
- (8) *Nothing in this section affects any incapacity of a corporation or other body or person in possession of land for public and statutory purposes to dedicate a way over the land as a highway would be incompatible with those purposes.*

37. The case of R. v. Oxford County Council ex parte Sunningwell Parish Council (1999) considered the issue of public use of a way. Lord Hoffman presiding stated, "...*the actual state of mind of the road user is plainly irrelevant*". It is immaterial therefore, whether the public thought the way was a 'public' path or not. The Hearing concluded that it is no longer necessary to establish whether the users believe they have a legal right to use the land. Instead, it should be shown that use has been '*as of right*' which means that people using the way must do so openly without damaging the property and not be reliant on being given permission to use the path by the owner of the land over which the path runs.
38. The use of the way must also be without interruption. Once the 20 year uninterrupted use '*as of right*' has been proved, the burden then moves to the landowner to show there was no intention to dedicate, i.e. evidence of any overt acts by the landowner to deter the public from using the way, or conversely to permit the public to do so. In the case of R. v. Secretary of State for the Environment ex parte Dorset County Council, Dyson J. considered this aspect of s.31(1) of the Highways Act 1980, the meaning of "*sufficient evidence that there was no intention ... to dedicate*". The Judge concluded that overt and contemporaneous evidence of an intention not to dedicate would usually be required.
39. The 25 witnesses unanimously claim that the way was always available for use throughout the relevant period and there were no notices that were sufficient in law to prevent public use of the way. No proof to the contrary has been submitted.
40. There have been no Highways Act 1980 Section 31(6) statutory deposits declaring non-intention to dedicate the claimed route deposited with the Surveying Authority during the relevant period.
41. Only evidence for and against the use of the way 'as of right' and uninterrupted for a period of twenty years can be considered in making the confirmation decision. Issues such as crime prevention, safeguarding of property, safety, convenience of the landowner, privacy and effects on the environment cannot be considered.

Environmental Impact of the Recommendation

42. Winterbourne Parish Council is concerned that increased use of the way and removal of the barrier may encourage general nuisance and lead to fly tipping, dog fouling and other problems.
43. It is possible that these are perceived problems that may not materialize. However, if it proves necessary then dog bins, notices and/or a Traffic Regulation Order may need to be effected.
44. Environment impact cannot be taken into consideration for the confirmation decision.

Risk Assessment

45. Winterbourne Parish Council is concerned that confirmation of the Order and subsequent removal of the barrier may lead to vehicles illegally driving along the route at high speed, putting legitimate users at risk.
46. Should it prove necessary once the Order is made, this issue may be addressed through a Traffic Regulation Order.
47. Effects concerning risks or safety cannot be taken into consideration for the confirmation decision.

Financial Implications

48. Costs would be incurred associated with attending a Public Inquiry for which budgetary provision has been made.

Options Considered

49. That:
- (i) The Order is confirmed as made.
 - (ii) The Order is not confirmed as made.
 - (iii) The Order is confirmed with modifications.

Brief Summary and Conclusions

50. Taken together there is a substantial body of user evidence claiming use of the proposed public right of way by the public '*as of right*' and without interruption for a full period of twenty years. Therefore in accordance with s.31 of the Highways Act 1980, "*the way is to be deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it*".
51. The principal objector challenges the witness evidence on the grounds that "*there is a clear indication by the landowner not to dedicate the right of way as evidenced by the erection of signs*" and "*that the public at large, do not use the right of way for the period claimed*". All other grounds of objections that have been submitted are not relevant to the Order confirmation decision.
52. The signs referred to by the principal objector in the paragraph above are not sufficient in law to rebut the intention of dedication. The body of submitted evidence taken as a whole amounts to significant use by the public at large (see paragraphs 14-22 above).
53. Because there are outstanding objections that have not been withdrawn, the case must now by law be submitted to the Secretary of State for the Environment, Food and Rural Affairs so that the evidence can be tested through a local Public Inquiry, at a Hearing or by written representation as the Secretary of State sees fit.

Reasons for Recommendation

54. Officers are satisfied that the legal test in Sections 53(3)(c)(i) and 53(3)(c)(ii) of the Wildlife and Countryside Act 1981 has been satisfied and that public bridleway rights subsist over those lengths of path between points A-B-C-D on the Order Map.
55. Objections have been duly made and pursuant to paragraph 7 of Schedule 15 of the Wildlife and Countryside Act 1981 the Council is statutorily obliged to forward the Order along with all evidence and objections to the Secretary of State for determination.

Recommendation

56. That the Wiltshire County Council Sheet SU 13 SE Rights of Way Modification Order No. 14, 2009 to upgrade part of footway 18 at Winterbourne to status of bridleway and to add a new bridleway, No. 30 at Winterbourne to the Definitive Map and Statement for the Amesbury Rural District Council area 1952 be submitted to the Secretary of State for Environment, Food and Rural Affairs, together with the objection letters and representations with the recommendation that the Order be confirmed as made.

GEORGE BATTEN

Corporate Director Transport, Environment and Leisure

Report Author

Tim Chinnick

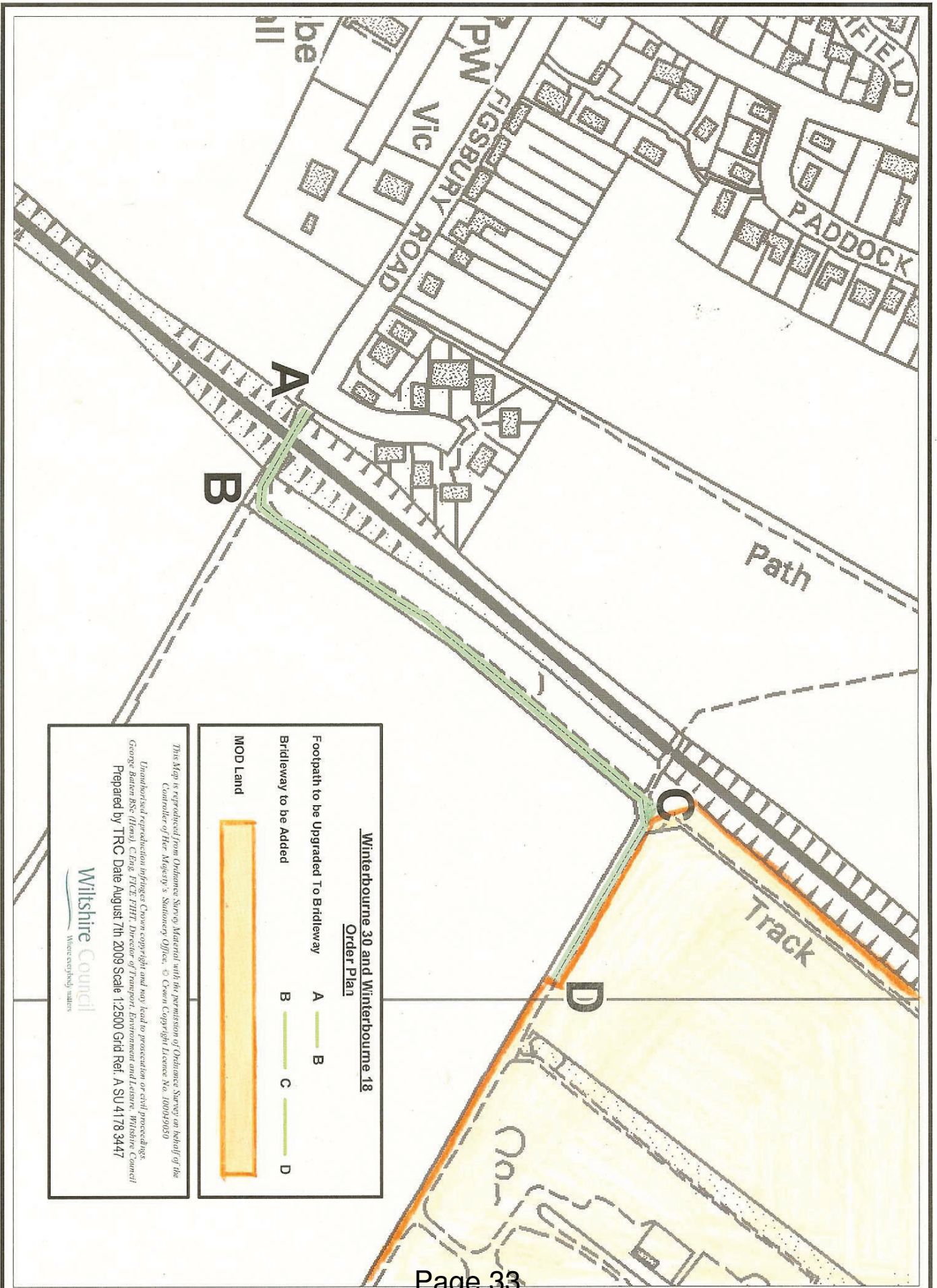
Rights of Way Officer

2 December 2009

The following unpublished documents have been relied on in the preparation of this Report:

Correspondence with parish councils, user groups, other interested bodies and members of the public

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Winterbourne 30 and Winterbourne 18
Order Plan

Footpath to be Upgraded To Bridleway	A	—	B
Bridleway to be Added	B	—	C
MOD Land	D	—	D

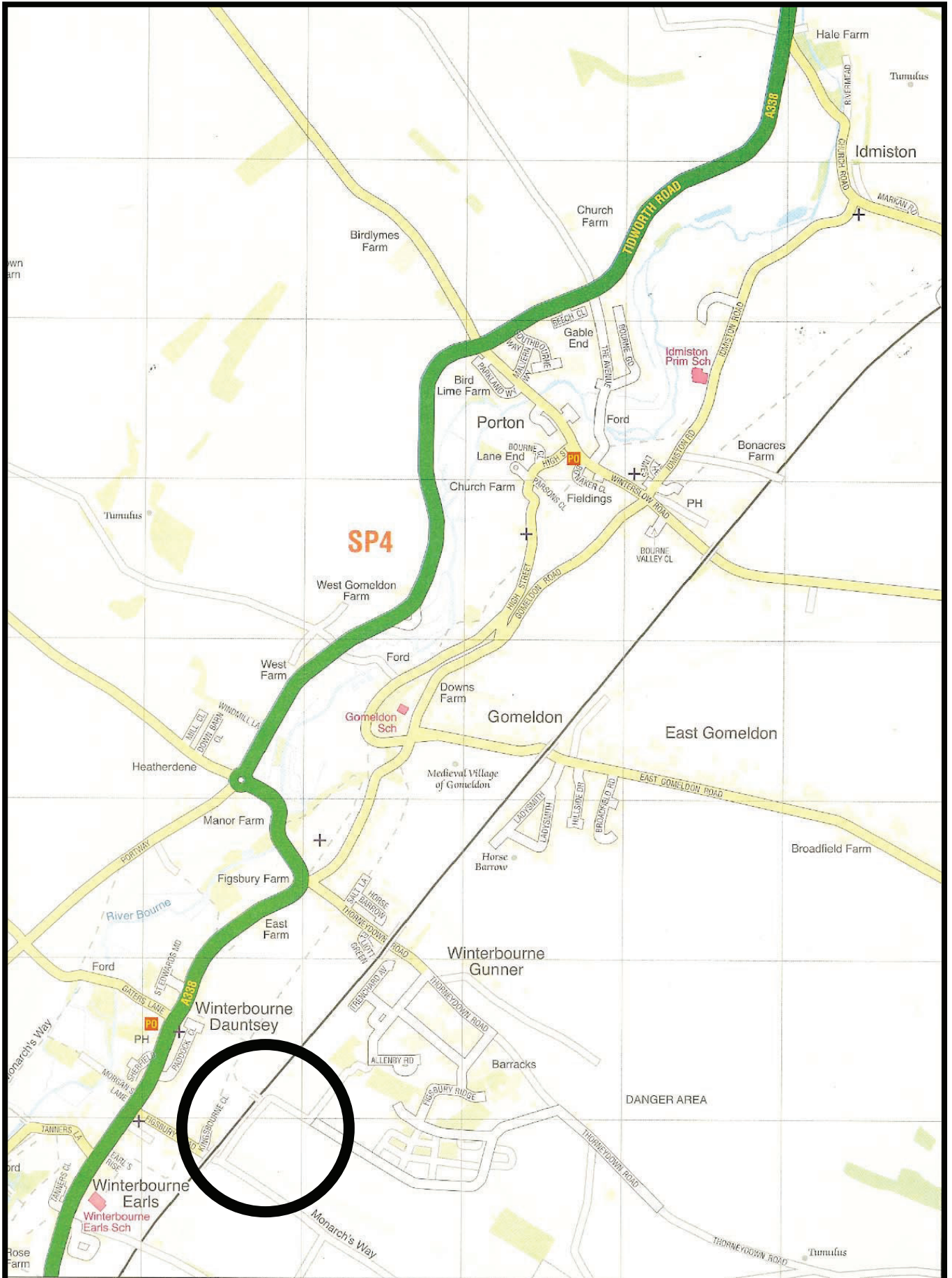
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George Barton BSc (Hons), CEng, FRCE, FRHT, Director of Transport, Environment and Leisure, Wiltshire Council

Prepared by TRC Date August 7th 2009 Scale 1:2500 Grid Ref: ASU 478 3447

Wiltshire Council
Where ever help matters

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**Report to the
Secretary of State for
Environment, Food
and Rural Affairs**

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email:enquiries@pins.gsi.
gov.uk

**by Barney Grimshaw BA DPA
MRTPI(Rtd)**
an Inspector appointed by the Secretary of State
for Environment, Food and Rural Affairs

Date: 17 April 2009

WILDLIFE AND COUNTRYSIDE ACT 1981

REPORT INTO AN APPEAL BY

MS CAROLINE JULIA BINGHAM

AGAINST THE DECISION OF

WILTSHIRE COUNTY COUNCIL

NOT TO MAKE AN ORDER UNDER SECTION 53(2)

IN RESPECT OF A CLAIMED BRIDLEWAY

FROM

THE SOUTH END OF FIGSBURY ROAD TO WINTERBOURNE BARRACKS, THE
WINTERBOURNES, WILTSHIRE

File Ref: NATROW/K3930/529A/08/38

REPORT TO THE SECRETARY OF STATE FOR ENVIRONMENT, FOOD AND RURAL AFFAIRS
Ref: NATROW/K3930/529A/08/38

Case Details

- This appeal is made by Ms Caroline Julia Bingham under Schedule 14 Paragraph 4(1) of the Wildlife and Countryside Act 1981 (the 1981 Act) against the decision of Wiltshire County Council (WCC) not to make a modification order under Section 53(2) of that Act.
- The application dated 7 October 2007 was refused by notice dated 21 May 2008.
- The appellant claims that the Definitive Map and Statement for the area should be modified by the addition of a bridleway running from the south end of Figsbury Road to Winterbourne Barracks, The Winterbournes, Wiltshire.

Recommendation: I recommend that the appeal be allowed and that Wiltshire Council be directed to make a Modification Order to add to the Definitive Map and Statement for the area a public bridleway running from Figsbury Road to Winterbourne Barracks, Wiltshire.

Preliminary Matters

1. I have been appointed to report to the Secretary of State for Environment, Food and Rural Affairs on the above mentioned appeal.
2. The relevant evidence in this case consists of a number of statements made by users of the claimed footpath, the owner of the land crossed by it and others. I have not visited the site, but I am satisfied that I can make a recommendation without the need to do so.
3. This report comprises a summary of the material points made in the submissions, an assessment of the evidence against the relevant criteria and my conclusions and recommendation.

Description of the Route

4. The route which is claimed commences at the south end of Figsbury Road, it then follows a metalled road through an arch under the railway line. The road then runs uphill in a north-easterly direction parallel to the railway to the perimeter fence of Winterbourne Barracks. It then turns south-eastwards to reach the perimeter track of the barracks, access to which is controlled by a lockable gate.

The Case for the Appellant

5. The claimed bridleway has been used by horse riders, cyclists and others for approximately 50 years. Nineteen people have submitted User Evidence Forms (UEFs) giving details of their use of the route and some have also described their use in letters. A total of 14 people have provided evidence of their use of the route on horseback.
6. In addition, riders from two livery yards in the area have used the claimed route for many years. Unfortunately, as horse owners rarely stay at the same yard for more than a few years it is difficult to assemble evidence covering a

REPORT TO THE SECRETARY OF STATE FOR ENVIRONMENT, FOOD AND RURAL AFFAIRS
Ref: NATROW/K3930/529A/08/38

lengthy period. However, two people have provided lists of people they have known who have used the route with horses. The lists include 37 and 26 names respectively, although in many cases only riders' first names and the names of their horses are known.

7. No riders were ever obstructed before the erection of a field gate and kissing gate across the route in 2006 and none were challenged or saw notices stating that the route was not a right of way. A number of users say that they saw and/or were seen by the landowner when he was working in adjoining fields but were still not challenged.
8. Although there was a barrier across the route for many years before 2006, this had a gap alongside it which was approximately 1.5 metres (5 ft.) wide. Horses of all heights and widths had no difficulty passing this barrier.
9. The claimed route would technically be a cul de sac as it does not link with another right of way. However, it does link with a path on MOD land which is open to the public during the daytime and also some evenings and most weekends, except when military exercises are taking place. In any event, the British Horse Society has provided evidence of modification orders for other cul de sac bridleways being confirmed.

The Case for Wiltshire County Council and the Objector

10. WCC originally refused to make an order on the grounds that there was insufficient evidence available of public of use of the route. However, in the light of further evidence submitted later, the council's Rights of Way Officer now accepts that it is reasonable to allege that public bridleway rights subsist over the claimed route.
11. No documentary evidence of public rights along the claimed route has been submitted or subsequently discovered.
12. Until 1982, the land crossed by the claimed route was owed by the Ministry of Defence (MOD) and therefore no public rights along it could be acquired before then under the 1980 Act (although they possibly still could have been under common law).
13. Public use of the route as a bridleway was called into question in 1986 when the current owner of the land erected a field gate and kissing gate across the whole width.
14. There is now enough direct evidence of use, supported by other evidence, to suggest that it is reasonable to allege that the route can be presumed to have been dedicated as a public bridleway between 1986 and 2006.
15. WCC considers that the actions of landowners during the same period have not been sufficient to rebut such a presumption of dedication. Although a barrier and sign are said to have been maintained across the route, the barrier had a gap alongside it and the sign was to some degree ambiguous. The current landowner states that the sign was deliberately left on the barrier to indicate that there was no intention to dedicate public rights. He also states that the barrier made it impossible for cars, motorbikes or horses to use the route and that he has not seen any using it.

REPORT TO THE SECRETARY OF STATE FOR ENVIRONMENT, FOOD AND RURAL AFFAIRS
Ref: NATROW/K3930/529A/08/38

16. Although the proposed bridleway would be a cul de sac, it would terminate at a pleasant and interesting MOD track which could be regarded as a place of public resort. In any event, the fact that the route is a cul de sac does not affect the evidence of use or prevent the requirements of the 1981 Act being met.
17. Dedication of the route cannot be inferred at common law as there is no evidence of actions by landowners, either before or after 1986, to indicate that they intended to dedicate it as a public right of way.

Conclusions

Introduction

18. In considering the evidence and submissions, I take account of the relevant part of the 1981 Act.
19. Section 53(c)(i) of the 1981 Act specifies that a Definitive Map Modification Order should be made following the discovery by an authority of evidence which (when considered with all other relevant evidence available to them) shows that a right of way subsists or is reasonably alleged to subsist over land in the area to which the map relates.
20. It was made clear by the High Court in the case of *Norton & Bagshaw*¹, that this involves two tests:

Test A - Does a right of way subsist on the balance of probabilities? This requires clear evidence in favour of the appellant and no credible evidence to the contrary.

Test B - Is it reasonable to allege on the balance of probabilities that a right of way subsists? If there is a conflict of credible evidence, and no incontrovertible evidence that a way cannot reasonably be alleged to subsist, then the answer must be that it is reasonable to allege that it does.

21. In addition, if the dedication of the route as a highway is to be presumed, the user evidence must be considered against the requirements of Section 31 of the 1980 Act. Section 31(1) provides:

"Where a way over any land, other than a way of such character that use by the public could not give rise at common law to any presumption of dedication, has been actually enjoyed by the public as of right and without interruption for a full period of 20 years, the way is to be deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it."

Section 31(2) adds:

22. *"The period of 20 years referred to in subsection (1) above is to be calculated retrospectively from the date when the right of the public to use the way is brought into question, whether by a notice such as is mentioned in subsection (3) below or otherwise"*.

¹ R v SSE ex parte Mrs J Norton and Mr R Bagshaw [1994]

REPORT TO THE SECRETARY OF STATE FOR ENVIRONMENT, FOOD AND RURAL AFFAIRS
Ref: NATROW/K3930/529A/08/38

The Evidence

23. No documentary evidence of the existence of public rights along the claimed route has been discovered. The question of whether such rights have come into being therefore depends upon whether dedication of the route can be presumed to have occurred in accordance with the provisions of the 1980 Act or inferred at common law.
24. Until 1982, the land crossed by the claimed route was in the ownership of the MOD. During that period public rights could not be presumed to have been acquired over it under the 1980 Act as it was Crown Land held in trust for her majesty for the purposes of a government department, to which the relevant provisions of the Act did not apply.
25. It is generally accepted that public use of the claimed route as a bridleway was brought into question in 2006 when a field gate and kissing gate were erected across it. It is also accepted that the route was partially obstructed by a barrier before 2006. The current landowner and some others have stated that there was a sign attached to this barrier reading "MOD Property Keep Out". Neither this sign nor the barrier appears to have had any effect on people who used the route as a bridleway. It may be that as the land was no longer MOD property after 1982 and there was a gap next to the barrier, the sign was not considered relevant or it may have been thought to only seek to restrict vehicular traffic. In the circumstances, I take 2006 as the date when public use of the claimed route as a bridleway was brought into question. The period of 20 years use required before dedication of the route can be presumed under the 1980 Act therefore runs from 1986 to 2006 in this case.
26. I have seen evidence of use of 11 people who used the claimed route as a bridleway during the relevant 20 year period plus that of 3 others who only used it before 1986. Only 4 people claim to have used the route as a bridleway in 1986 and 1987 but in later years usage seems to have increased. The evidence also indicates that 14 people used the claimed route on foot during the relevant 20 year period with at least 8 of these using it in any particular year. Several people claimed to have used the route both on foot and on horseback.
27. The frequency of use claimed varied but many people stated that they used it weekly or more often. All those providing evidence stated that they had never been obstructed or challenged during the relevant 20 year period and had not seen any signs restricting their use. Most users stated that they also saw other people using the route, both riders and walkers (and in some cases cyclists and vehicles). Several people referred to there having been a barrier across the route but, as there was a gap alongside it, they were not obstructed by it.
28. There is also additional evidence of repute to the effect that the claimed route was regarded as a public bridleway. In particular, two people provided lists of other riders who used it and one long term resident of the area who lives close to the route has stated that it has been well used over a lengthy period by both horse riders and walkers.
29. On balance, it is my view that the available user evidence is enough to raise the presumption that the claimed route has been dedicated as a public footpath

REPORT TO THE SECRETARY OF STATE FOR ENVIRONMENT, FOOD AND RURAL AFFAIRS
Ref: NATROW/K3930/529A/08/38

- and as a public bridleway, if weight is given to the additional evidence of repute as well as to the actual evidence of use. However, this presumption can only be made subject to the proviso that there is not sufficient evidence that during the relevant 20 year period the landowner had no intention to dedicate it as a public right of way.
30. In this case there is little evidence of actions taken by the owners of the land crossed by the claimed route between 1986 and 2006 to indicate such a lack of intent. The current owner has stated that when his father purchased the land from the MOD in 1986 there was already a locked barrier in place near the railway bridge on which was attached a notice reading "MOD Property Keep Out" and that this barrier and sign remained in place until May 2006 when a new field gate and kissing gate were erected. There was a gap adjacent to the barrier to allow pedestrians to pass but he believed that this prevented horses from using the route.
31. However, the user evidence suggests that horse riders were not obstructed or deterred from using the route. The sign described did not specifically state that no public access was allowed and, in any event, after 1982 the land had ceased to be MOD property and the sign may well have seemed irrelevant. On balance I do not think that the fact that the subsequent owners left the sign in place can be regarded as sufficient evidence of their lack of intention to dedicate a public right of way to engage the proviso in Section 31 of the 1980 Act. It is therefore my view that it is reasonable to allege that the claimed route was dedicated as a public bridleway as a result of public use between 1986 and 2006.
32. An inference that a way has been dedicated for public use may be drawn at common law where the actions of landowners (or lack of action) indicate that they intended a way to be dedicated as a highway and where the public have accepted it.
33. In view of my previous conclusions regarding the user evidence presented in this case it may not be necessary to consider further the possibility that it might also be inferred that the claimed route was dedicated for public use at some time at common law. However, in this case there is relatively little evidence of public use before 1986 and no evidence of actions by landowners that would indicate their intention to dedicate public rights over the claimed route. It is therefore my view that it cannot be inferred at common law that any public rights have been dedicated over the route.
34. The claimed route is a cul de sac terminating at the perimeter track around Winterbourne Barracks at a point where there is a lockable gate bearing a sign which includes the wording:

"Perimeter track normal opening times for pedestrians

0700 -2100 during BST

0800 - 1700 at all other times

Liable to closure without warning

CLOSED TO THE PUBLIC"

REPORT TO THE SECRETARY OF STATE FOR ENVIRONMENT, FOOD AND RURAL AFFAIRS
Ref: NATROW/K3930/529A/08/38

Although this track has been described as pleasant and interesting, I think its nature as part of a military establishment means it cannot necessarily be regarded as a place of public resort in the usually accepted sense. However, it is my view that the fact that the claimed route terminates neither at another public highway nor a place of public resort does not necessarily mean it is a route that could not give rise at common law to a presumption of dedication arising. Therefore, given that the other requirements of Section 31 of the 1980 Act are satisfied, public rights could still have been acquired along the claimed route.

Other Matters

35. It was stated in support of the appeal that there is a great need for a bridleway along the claimed route as there are many horses and riders in the area, the route provides a useful link to other bridleways and would mean that riders could avoid riding along the busy A338 road. These concerns are understandable but, as they lie outside the criteria set out in the 1981 Act, I have given them no weight in reaching my conclusions.
36. The current landowner submitted a statutory deposit under Section 31(6) of the 1980 Act in September 2007. This supports his claim that it is not intended to dedicate public rights over the claimed route but, as it was submitted after the end of the relevant 20 year period, it does not affect my conclusions.

Overall Conclusion

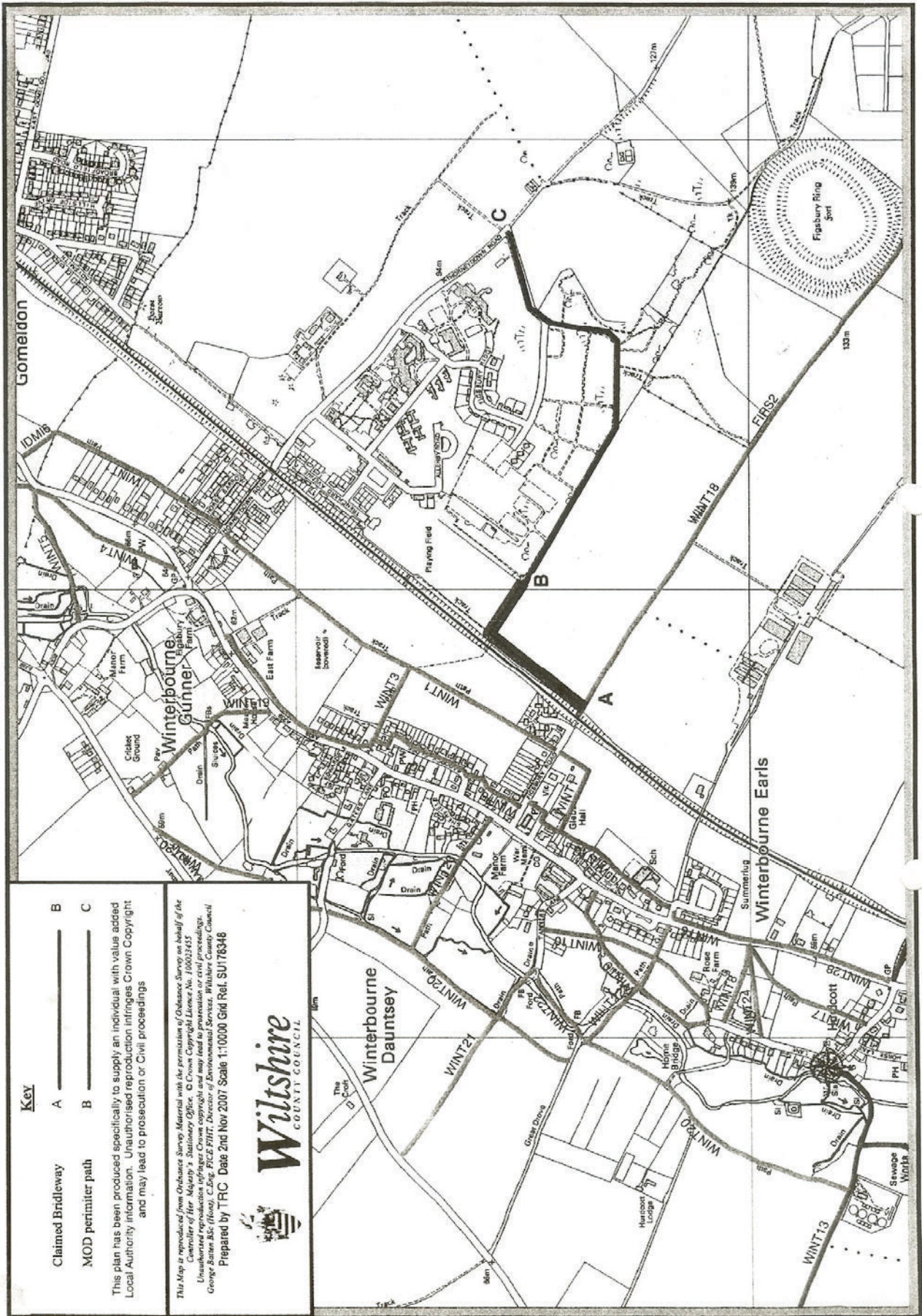
37. Overall, it is my view that the evidence that has been submitted in this appeal is sufficient to show that it is reasonable to allege that a public bridleway subsists over the claimed route. Therefore, on this basis, an Order should be made.

Recommendation

38. I recommend that the appeal be allowed and that Wiltshire Council be directed to make a Modification Order to add to the Definitive Map and Statement for the area a public bridleway running from Figsbury Road to Winterbourne Barracks, The Winterbournes, Wiltshire.

Barney Grimshaw

INSPECTOR



Key

- Claimed Bridleway A
- B
- MOD perimeter path C

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Prepared by TRC Date 2nd Nov 2007 Scale 1:10000 Grid Ref. SU176346



Wiltshire
COUNTY COUNCIL

**SUMMARY OF WITNESSES
[WINTERBOURNE CLAIMED PATH]**

APPENDIX 4

NAME of WITNESS	Dates Used (up to 2006)	Believed Status And Width	Frequency	Same Route Used	Challenged	Permission	Obstructions	Owner aware	Signage	Comments
Ms Caroline Bingham	13 yrs 1993- 2006	B/W 2-3m	2-4 per wk	Y	N	N	N	Y	N	Used for recreation. Often seen other horse riders/cyclists/push chairs/dog walkers/joggers. Used to present date by foot only since closure. Before then used on horseback. There was a single gate before railway bridge, chained but wide access to the left and no sign. Owner aware/seen owner and his workers drive up in car when riding and dog walking
Mr Francis Blewett	13 yrs 1984 - 1997	B/W 3m	15 per yr	Y	N	N	N	?	N	Used for Recreation/jogging on foot. Seen others mainly on foot.
Mrs. Susan Bryant	12 yrs 1988 - 2000	B/W 7 ft	Every W/E	Y	N	N	N	Y	N	Used for riding a horse. Gate under bridge, fixed but access available around it at side - wide enough for horses, buggy etc. Seen others using way. Horse riding/cyclists/walking Thought it belonged to MOD
Elizabeth Ann Burrows	30yrs 1976 - 2006	B/W 2m	Every Wk +	Y	N	N	N	Y	Y	Riding a Horse 1984 – 2006 Walking 1976 – Present Single bar just under railway bridge supported by metal bars & locked (by MOD?) but access for riders to right side. FP sign to Figsbury Rings. Gap at side of barrier was about 2m
Mr C N Burrows	7 yrs 1970 -1977	Byway 3-4m	Daily	Y	N	N	N	Y	N	Riding a Horse & Walking
Debbie Conti	28yrs 1970 - 1998	B/W 3-4m on tarmac	2-3 per week	Y	N	N	N	Y	N	Recreation/visiting friends/Riding a Horse 1970 – 1976 Walking 1988 – 1998 The Barrier that was at top end of Figsbury Road always allowed access to riders etc. even if down. Believe owner aware because in all yrs using it never stopped and assumed belonged to MOD.
Mrs. Jacqueline Gates	21yrs 1985 - 2006	B/W 15-20 ft + grass verges	Wkly	Y	N	N	N	Y	N	Riding a Horse The single bar gate across Figsbury Road only stopped vehicles There was always access to one side for pedestrians because of the public footpath further on.

**SUMMARY OF WITNESSES
[WINTERBOURNE CLAIMED PATH]**

APPENDIX 4

NAME of WITNESS	Dates Used (up to 2006)	Believed Status And Width	Frequency	Same Route Used	Challenged	Permission	Obstructions	Owner aware	Signage	Comments
J M Golding	41yrs 1967 - 2006	4m	Wkly	Y	N	N	N	Y	N	Walking Owner has seen us walking Gates not locked
Christine Hand	5 yrs 2001 - 2006	B/W 3-4m	2 per Mnth	Y	N	N	N	Y	N	Walking and exercising dog mostly sometimes children cycled. Seen mums with pushchairs taking children to winterbourne school. Seen horse riders. Gates – Not locked. Owner aware – Lots of walkers using it to access Figsbury Rings, Farmer in fields with tractor must see people all the time.
Julie Horne	13 yrs 1993 - 2006	- -	Wkly	Y	N	N	N	Y	N	Used for recreation/horse riding. Used to present date but only as far as gate since closure. Owner told me he was aware of public using the route. Gate now allowing walker but not disabled, horses, cyclists or pushchairs.
Amanda Jane Kail	25 yrs 1968 -1993	Byway 5m	Daily	Y	N	N	N	Y	N	Riding a Horse 1968 – 1975 Learning to drive 1981 Walking dogs and Hounds 1985 – 1993 Owner must be aware as route has been used by riders, cyclists and walkers as long as he has been in Winterbourne Earls.
Leslie George Kail	29 yrs 1964 - 1993	Byway 5m	Daily	Y	N	N	N	Y	N	Delivering to army camp 1964 – 1978/Teaching wife to drive 1981/ Walking dogs 1985 – 1993/ seen other walkers/drivers/cyclists. Mr Harvey would have known. This road was open. It was common knowledge among all local villages. No gates.
Mrs Sally May	18 yrs 1988 - 2006	B/W 7ft	Every W/E	Y	N	N	N	Y	N	Used riding horse/seen others horse riding, walking & cycling. Gate under bridge, fixed but access round side of it wide enough for horses, cyclists, buggy etc.

**SUMMARY OF WITNESSES
[WINTERBOURNE CLAIMED PATH]**

APPENDIX 4

NAME of WITNESS	Dates Used (up to 2006)	Believed Status And Width	Frequency	Same Route Used	Challenged	Permission	Obstructions	Owner aware	Signage	Comments
Mr & Mrs M D Morris	27 yrs 1979 - 2006	B/W 3m	6 per Yr	Y	N	N	N *	Y	N	Walking & Cycling *A Barrier at Bridge & Gate at Thorney Down Road (<i>not on route-TC</i>) People been using it for years & it is clear to all that it was in use on regular basis.
Suzanne Player	5 yrs 2001 - 2006	- 3-4m	Most W/E	Y	N	N	N *	Y	N	Used riding horse/leading pony/walking dog. Seen others walking/riding/cycling. Used to present date but only as far as gate since closure. No challenge until gate put up. Believe landowner aware of path usage because he has told people off for going into his fields. Was told when I moved here that all the local people use it. Previous owners of my horse used it for the ten yrs they lived here. *Now a gate that allows walkers but not disabled/horses/cyclists/pushchairs (<i>erected after the relevant period – TC</i>)
Linda Sherwood	12 yrs 1994 - 2006	B/W 2m	5-6 per week	Y	N	N	N	Y	N	Used horse riding/walking dogs for safety by not having to ride on the A338. Seen others walking/cycling/horse riding/dog-walking.
P Grant	45 yrs 1953- 1998	B/W -	*	Y	N	N *	N *	Y	N	Used for riding between Gomeldon and Durnford. Seen other horse riders/walkers * Used occasionally **No permission should be needed.
Karen Grant	13 yrs 1983 - 2006	B/W A gates width	15 per yr	Y	N	N	N	Y	N	Used for Pleasure/riding/walking. Seen others walking/cycling/riding
Amanda Brockway	7 yrs 1970 - 1977	B/W 6-10 ft	Wkly	Y	N	N	N	-	N	It is a tarmac road. Used it for riding our ponies/walking to Ford keeping off main road. Seen others walking on the path.
Mrs W Terry	21 yrs 1981-2002	B/W 20-30ft	Wkly	Y	N	N	N *	Y	N	Used for recreation riding bridleways to and from home, in and around villages. Seen others using the way for horse-riding, walking and running. Owner never stopped us riding along this route. * Gate across Figsbury Road but always the access on the side was open.

**SUMMARY OF WITNESSES
[WINTERBOURNE CLAIMED PATH]**

APPENDIX 4

NAME of WITNESS	Dates Used (up to 2006)	Believed Status And Width	Frequency	Same Route Used	Challenged	Permission	Obstructions	Owner aware	Signage	Comments
F Boudry	About 65 years 1942 - 2006	B/W -	Every Wk +	Y	N	N	N	Y	N *	Mr Boudry lives in Figsbury Road nearly adjacent to the claimed route. This lane has always been used for horse riding. Used by horse riders to such extent that collected horse droppings on a regular basis for roses. I have used the path walking, in a pram and pushing a pram, with my children and with my grandchildren. I have used the path every Sunday for past 30 years for marathon jogging practice. Exchanged pleasantries with numerous horse and dog owners. *Can only remember notices right up by the camp during IRA threats in 1970's.
Mrs R Hunt	13 yrs 1981-1994	B/W About 20 ft plus grass verges.	Wkly	Y	N	N *	N * *	Y	N	There was a gate across the road but always access at the side of the gate for everyone to get through to Figsbury Road and on to bridleways on the other side of Winterbourne. *Permission not needed. ** The gate across the road stopped vehicles; there was always access to the side for pedestrians to the public footpath. We had never been approached by anyone at anytime not to use the bridle path.
Mr T Priest	10 yrs 1991-2001	B/W 15-20m plus verges both sides	Wkly	Y	N	N	N *	Y	N	Riding Bridleway accessing Bridleway to Hurdcott from Gomeidon. Seen others riding, walking, jogging. *The access on the side of the single bar barrier was always open with no restrictions, no gate. Whilst riding this length of road the owner never told me not to ride this route to reach the bridleways in Hurdcott.
Mrs J Priest	10 yrs 1991-2001	B/W 15-20m plus verges both sides	Wkly	Y	N	N	N *	Y	N	Riding Bridleway accessing Bridleway in Hurdcott. Seen others riding, walking, jogging. *The barrier across the road stopped motor vehicles but the open access to the side of the barrier was always open to all horses, walkers, mothers with prams etc. Change was made by putting kissing gate in the previous 5ft gap next to the vehicle gate on Figsbury Road. In all the years I rode this route the farmer never stopped me or indicated that I should not use the route.

**SUMMARY OF WITNESSES
[WINTERBOURNE CLAIMED PATH]**

APPENDIX 4

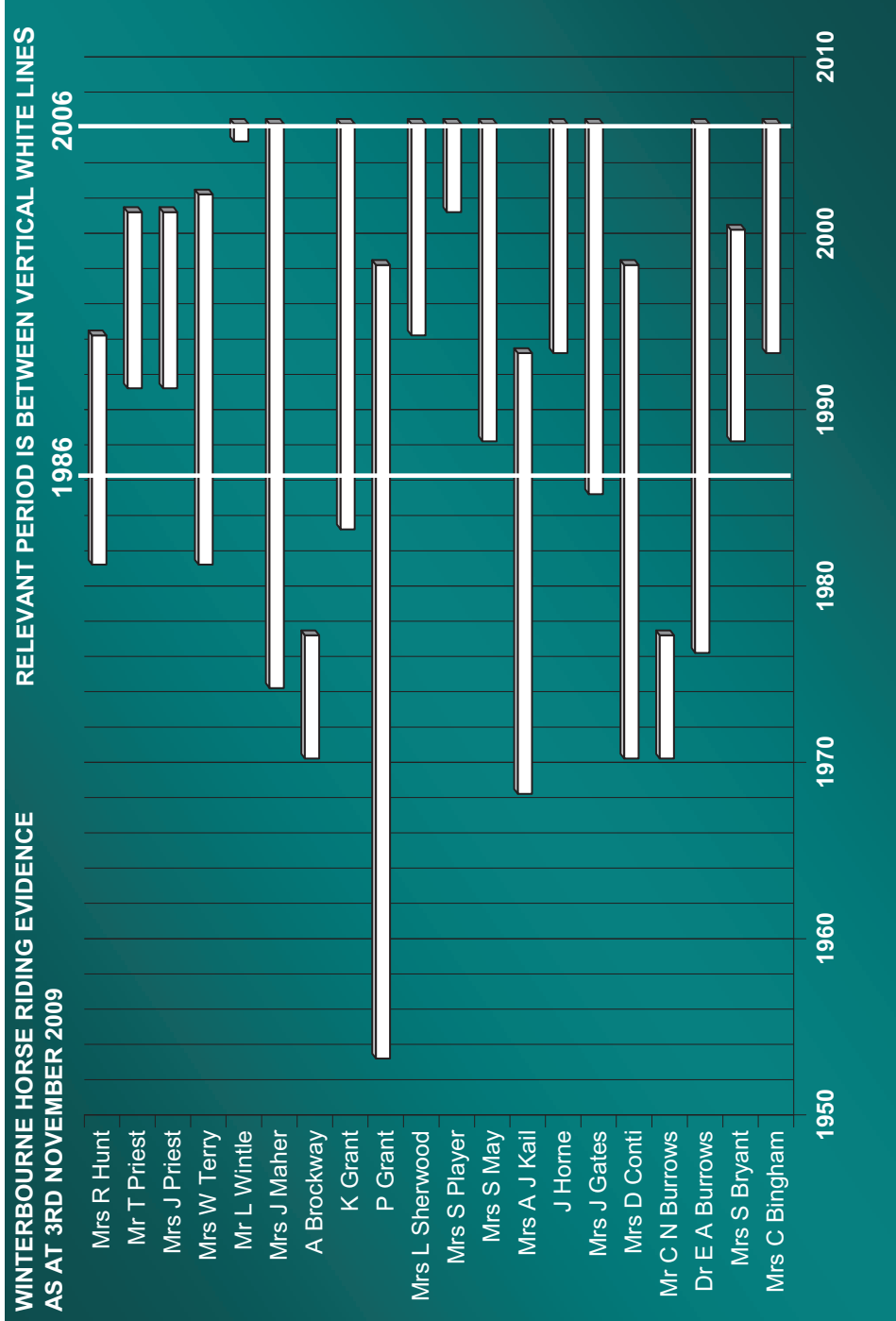
NAME of WITNESS	Dates Used (up to 2006)	Believed Status And Width	Frequency	Same Route Used	Challenged	Permission	Obstructions	Owner aware	Signage	Comments
Mr L Wintle	1 yr 2005 -2006	B/W -	2+ per wk	Y	N	N	N *	Y	N	Used walking horse-riding and cycling for recreation and visiting friends and family. * There was a single gate and a wide gap big enough to easily get a horse/double pushchair through. I have (<i>recently- TC</i>) not been able to push my children in their push chair as unable to get in. Have had to start riding on the A338 rather than the track.
Mr J Maher	32 yrs 1974-2006	B/W 2-3m	Daily	Y	N	N	N *	Y * *	N	Used as a child walking to and from school. Riding a friend's horse. Walking with my children. Used daily. Used for recreation and visiting family. Seen other horse-riders, dog-walkers, cyclists, joggers and children also horse and cart. * There was a single gate under the railway bridge which was chained with no signs. Could not use route with my double pushchair once gate had been erected also stopping my access to taking my children for a safe pony ride away from dangers of A338. ** I live on Figsbury Road and have often seen farmers with machinery using the road at the same time as the public were using the way.

**SUMMARY OF WITNESSES
[WINTERBOURNE CLAIMED PATH]**

APPENDIX 4

GRAPH SHOWING STRENGTH OF EQUESTRIAN USER

(The relevant 20 year period is shown between the two vertical white lines labelled 1986 and 2006)

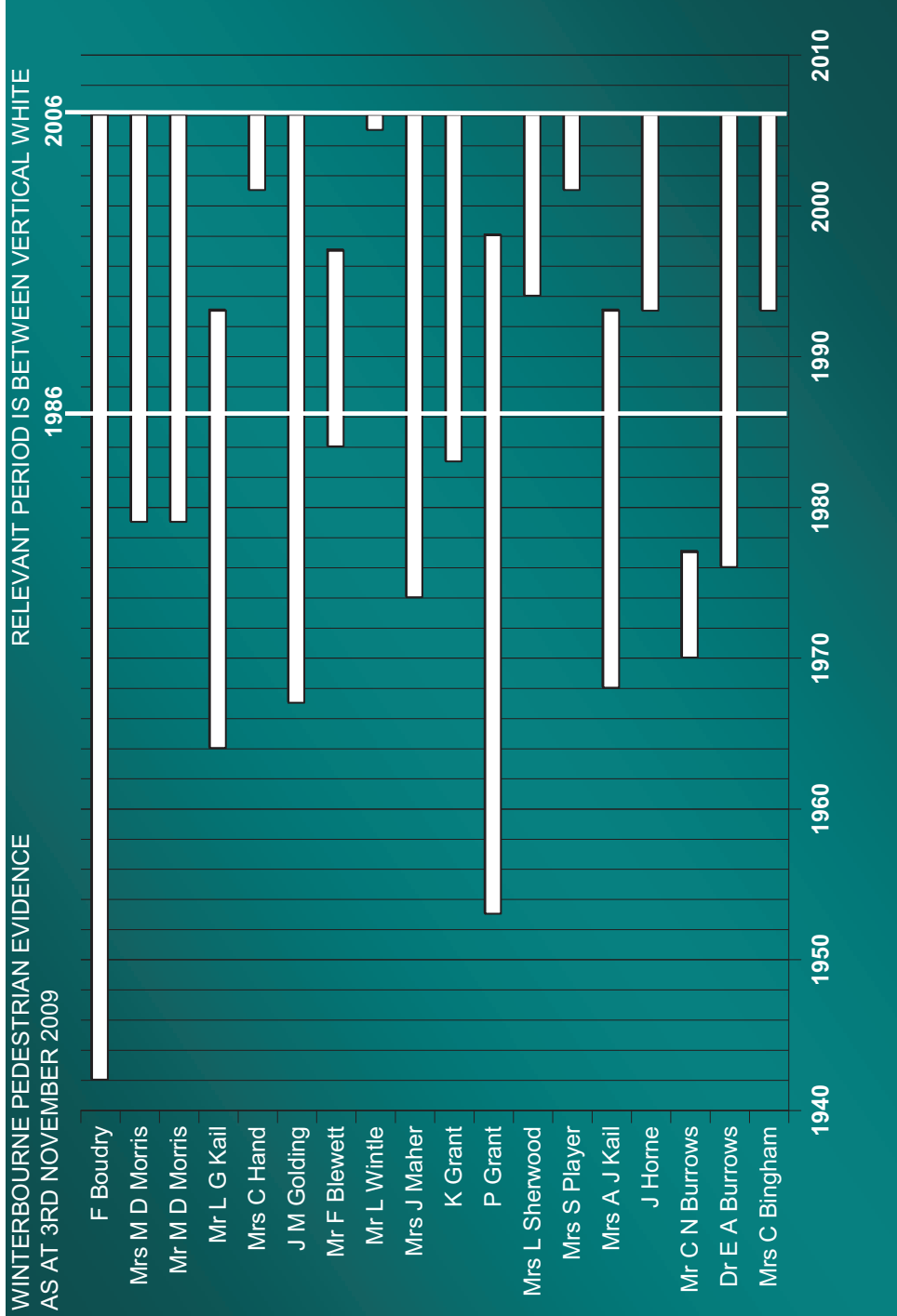


**SUMMARY OF WITNESSES
[WINTERBOURNE CLAIMED PATH]**

APPENDIX 4

GRAPH SHOWING STRENGTH OF PEDESTRIAN USER

(The relevant 20 year period is shown between the two vertical white lines labelled 1986 and 2006)

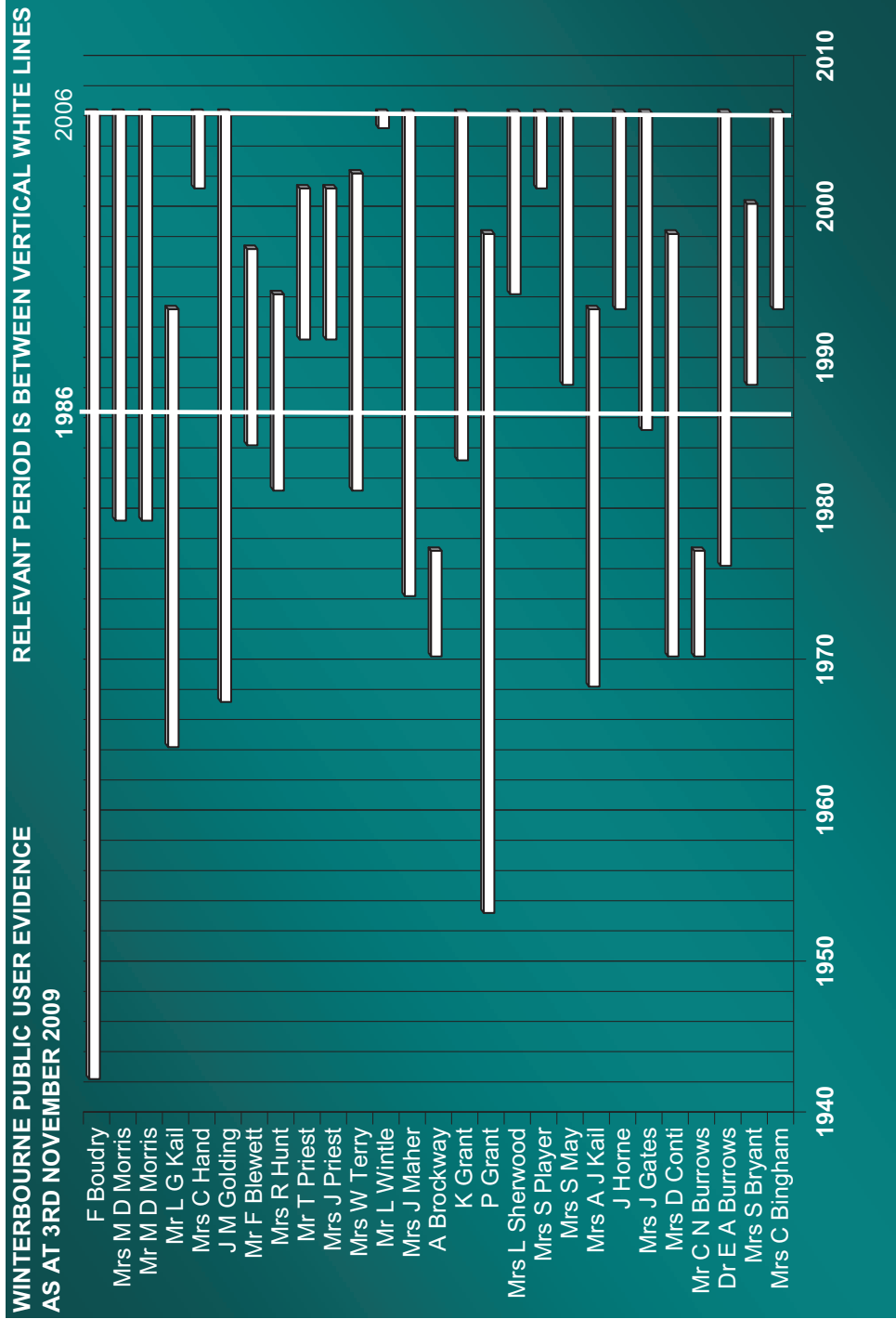


**SUMMARY OF WITNESSES
[WINTERBOURNE CLAIMED PATH]**

APPENDIX 4

GRAPH SHOWING STRENGTH OF ALL PUBLIC USER (EQUESTRIAN + PEDESTRIAN)

(The relevant 20 year period is shown between the two vertical white lines labelled 1986 and 2006)



Agenda Item 8

INDEX OF APPLICATIONS ON 28 JANUARY 2010

	APPLICATION NO.	SITE LOCATION	DEVELOPMENT	RECOMMENDATION	DIVISION MEMBER
1	S/2009/0307	CROSS KEYS, FOVANT, SALISBURY, SP3 5JH	SINGLE STOREY REAR EXTENSION AND INTERNAL ALTERATIONS AND CHANGE OF USE FROM DWELLING TO PUBLIC HOUSE AND DWELLING HOUSE	APPROVE	CLLR GREEN
2	S/2009/1539	78 ST. MARKS AVENUE, SALISBURY, SP1 3DW	RETENTION OF EXISTING HOUSE AND ERECTION OF 4 ADDITIONAL HOUSES TOGETHER WITH A NEW PRIVATE DRIVE AND ALTERATIONS TO ACCESS	APPROVE SITE VISIT 3.30PM	CLLR MOSS
3	S/2009/1343	LOWENVA, SHRIFFLE LANE, WINTERSLOW, SALISBURY, SP5 1PW	O/L SEVER LAND DEMOLISH EXISTING DOUBLE GARAGE/WORKSHOP; ERECT A DETACHED 2 STOREY 4 BEDROOM HOUSE AND 2 DETACHED DOUBLE GARAGES	REFUSE	CLLR DEVINE
4	S/2009/0900	HAZELDENE, GILES LANE, LANDFORD, SALISBURY, SP5 2BG	ERECTION OF 2 X HOLIDAY CABINS	APPROVE	CLLR RANDALL
5	S/2009/1704	HIGH HOUSE, LOWER CHICKSGROVE, TISBURY, SALISBURY, SP3 6NB	INTERNAL AND EXTERNAL ALTERATIONS AND EXTENSIONS	REFUSE	CLLR GREEN
6	S/2009/1705	HIGH HOUSE, LOWER CHICKSGROVE, TISBURY, SALISBURY, SP3 6NB	INTERNAL AND EXTERNAL ALTERATIONS AND EXTENSIONS	REFUSE	CLLR GREEN
7	S/2009/1537	WARE FARM, BENN LANE, FARLEY, SALISBURY, SP5 1AF	ERECTION OF POLYTUNNEL	APPROVE	CLLR DEVINE
8	S/2009/1784	FRICKERS BARN, SUTTON MANDEVILLE, SALISBURY, SP3 5NL	ERECTION OF TWO 3.6M X 3.6M LOOSE BOXES WITH 3.6M X 2.7M TACK/STORE ROOM	APPROVE	CLLR GREEN

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Deadline	29/04/09		
Application Number:	S/2009/0307		
Site Address:	CROSS KEYS FOVANT SALISBURY SP3 5JH		
Proposal:	SINGLE STOREY REAR EXTENSION AND INTERNAL ALTERATIONS AND CHANGE OF USE FROM DWELLING TO PUBLIC HOUSE AND DWELLING HOUSE		
Applicant/ Agent:	MRS PAULINE STORY		
Parish:	FOVANT		
Grid Reference:	400670 128515		
Type of Application:	FULL		
Conservation Area:		LB Grade:	II
Case Officer:	Mr A Bidwell	Contact Number:	01722 434381

Reason for the application being considered by committee.

Councillor Deane requested that the application be considered by committee for reasons of local concern, should the recommendation not require Cross Keys Cottage to be tied to the Public House.

Members will recall that this item was deferred from the meeting of 29 October 2009 for a site visit. The item was again deferred at the meeting of 18th November 2009 following the recommendation of the Head of Development Management (South), to amend the description of development to include the words "**and dwelling house**" and to re-advertise the proposal with the amended description

The report presented to members on 18th November 2009 including its appendices (Appendix 1 and 2) is reproduced below with an amendment to the planning history set out **in bold**.

Appendix 3 includes a letter received from the applicant following the November meeting and the subsequent re-advertisement, and all letters of representation from neighbours, the Parish Council comments, the Conservation Officer's comments and AONB Officer's comments. (see appendix 3)

1. Purpose of Report

To consider the above application and to recommend that planning permission be GRANTED subject to conditions

Following completion of a S106 Unilateral Undertaking / agreement in respect of the following matters:

- (i) Recreational contributions in regard to Cross Keys Cottage as required under saved policy R2 of the adopted Salisbury District Local Plan.

2. Main Issues

1. Principle of development
2. Likely impact of the proposal on viability and other local facilities.
3. Impact on the amenity of neighbouring properties / should the property be tied?
4. Enforcement issues

- 5. Design/Character and appearance of the conservation Area / Impact on the Listed building
- 6. Highway Safety

3. Site Description

The site is located on a bend of the A30 main road opposite the Pembroke Arms Public House. The site is within the Conservation Area and the Housing Policy Boundary of Fovant. The property itself formerly The Cross Keys Public House is a grade II Listed building. On the submitted plans, part of the building subject of this application is called "Cross Keys Cottage", with the other part called "The Cross Keys". The part of the building shown as Cross Keys Cottage on the submitted plan is currently occupied as a separate unauthorised dwelling from "The Cross Keys".

4. Planning History

Application number	Proposal	Decision
80/867	Car parking facility for 16 cars and construction and alteration of access	Approved with conditions 07/08/80
93/1179	Change of use of right hand side of hotel to house	R 17.1.94
95/35	Change of use of right hand side of hotel to house	Approved with conditions 23 rd May 1995
98/0540	Six bedroom unit of accommodation	Approved with conditions 15 th June 1998
98/1440	Six bedroom motel unit	Approved with conditions 18 th Feb 1999
99/2047	Change of use of public house to dwelling	Approved with conditions 19 th April 2000
00/0001	Listed building change of use of house including internal staircase and one new door opening removal of urinals and removal of one toilet	Approved with conditions 7 th feb 2000
02/2196	Erect residential unit with associated access drive and parking	Approved with conditions 16 th Sept 2003
04/0484	Listed building, to move pedestrian access from main A30, 2 metres to the right in the wall by blocking existing access with stones from the wall and creating new wooden gateway, improving safety	Approved with conditions in 14 th April 2004
04/1704	Three bedroom bungalow	Withdrawn 27 th September 2004 Withdrawn 9 th January 2007
06/2306	Single rear extension and internal alterations to form conversion of dwelling	

06/2353	to public house Single storey rear extension and internal alterations	Withdrawn 9 th January 2007
] 07/0634	Listed building, Single storey rear extension Internal alterations	Approved with conditions 17 th July 2007
07/0633	Single story rear extension, internal alterations, change of use to public house	Withdrawn 28 th February 2008

Summary of Planning History

S/93/1179 was originally recommended for refusal for 3 reasons, overlooking, noise and disturbance from the public house to the occupiers of the dwelling and highway reasons.

Members did not concur with that recommendation and deferred the application to establish whether WCC (as highway authority) could stop up, or make one way the northern end of Brook Street.

When the advice from WCC was negative, the application was then refused on highway grounds alone.

S/95/35 for essentially the same proposal- was submitted once the highway issues appeared able to be addressed and was approved subject to Grampian conditions in respect of highway and parking issues.

The two 1998 applications as set out above cannot be implemented by reason of a Section 106 Agreement dated 19/04/2000 in relation to 99/2047. This agreement affectively revoked these approvals for the units of accommodation in favour of the change of use of the pub to residential. As such the accommodation units are not now material in considering this application.

Another later Section 106 Agreement dated 29/08/03 in relation to 02/2196 as above, also carried over the revocation of the 1998 applications whilst also ensuring the provision of pedestrian and vehicular access to and from the A30 to the proposed development via the existing access, and to ensure that the access is permitted to continue as a right / covenant should the development become separated from the remainder of the Cross Keys site.

Condition 6 of 99/2047, stated;

"The residential accommodation hereby permitted shall be ancillary to the building currently known as the Cross Keys Hotel forming a single unit of residential accommodation, unless otherwise agreed by the Local Planning Authority upon submission of a planning application in that behalf".

This proposal now under consideration will also provide a clarification as to what elements of the above approval have not been carried out in accordance with the approved plans. Following a site meeting the details recorded as not complying with the approved plans have been included in this application and are clearly illustrated on the plans. Notably the unit of accommodation has been subdivided by the blocking of the openings in the wall – so "Cross Keys Cottage" (residential) is not accessible from the rest of the building labelled as "The Cross Keys" on the submitted plans (the proposed new public house area).

S/2007/0633 was resolved to be granted by WAC 21.06.07 subject to a S106 agreement to tie the public house and Cross Keys Cottage. Minute 17 of that meeting states:

"Members considered that the proposal would have a significant and detrimental impact on the adjoining property and would only be acceptable if that property was tied to the use of the pub and not let or sold off separately".

This agreement was not completed and the application was withdrawn by the applicant on 28.02.2008. The current application under consideration is essentially a resubmission of the withdrawn application.

S/2007/634 is the 'associated' LBC to s/2007/633 granted by WAC at the same meeting. This authorises the 'works' necessary to facilitate the planning application now under consideration. These works include the proposed extension and the solid blocking of the openings in the dividing wall between Cross Keys Cottage and the remainder of the building. This LBC remains extant until 17/07/2010.

5. The Proposal

This proposal is for a single storey rear extension and internal alterations to enable the conversion of the building from residential to a Public House and dwelling. This application is partially retrospective, in that the part of the building labelled as "Cross Keys Cottage" on the application plans is currently occupied as a separate residential dwelling from the other part of the building labelled as "The Cross Keys".

This application therefore not only relates to the change of use to a public house and a proposed rear extension to that part of the building labelled as "The Cross Keys", but also to "regularise" the creation of a separate residential dwellings on the site (the building labelled as Cross Keys Cottage), adjacent to a proposed public house.

(It should be noted that an application for listed building consent for the erection of the rear extension and internal alterations as shown on the current application has already been approved in 2007)

6. Planning Policy

The following policies are considered relevant to this proposal

G1 Sustainable development
G2 Criteria for development
D3 Extensions
CN3 Character and setting of listed buildings
CN4 Change of use of listed buildings
CN8 development in conservation areas

Planning Policy Guidance note 15, Planning and the Historic Environment

Planning Policy Statement 1, Delivering Sustainable Developments

7. Consultations

Parish Council

Support the proposal subject to conditions as follows:

- Section 106 agreement should ensure that Cross Keys Cottage remains in one ownership.
- Proposed ground floor alterations are not contentious
- Support the construction of the extension
- Disabled access to first floor function room will not be possible
- Recycling facilities currently on car park are should not be displaced to land to the south.
- There being at least one pub in the village is of great importance.

The full comments are appended to this report.

Highways

Observations are the same as the previous application S/2007/0633.

Previous comments:

Whilst I would not wish to raise a highway objection to the proposal I recommend that, in the interest of highway safety, the existing sub-standard vehicular access situated immediately to the east of Cross Keys be stopped up for vehicular use.

Environmental Health

*I understand that the application site currently has permission for residential use and the application seeks change of use as well as a rear extension to include a kitchen. If planning permission is granted, the public house could have regulated entertainment with a significant risk of causing noise nuisance to the adjoining residential use. Further to this there is a significant risk of nuisance being caused to the adjoining residential use regarding odour from the kitchen and noise from any extraction equipment/ducting. Having said this, I am not in principle against the application though if you are minded to grant planning permission I would recommend that Cross Keys Cottage be ancillary to the proposed public house and **not** sold or rented as a separate entity in its self.*

I would recommend standard condition to control hours of work and protect the nearby residence from noise and nuisance from construction and demolition work.

Further comments

Application for change of use and extension at the Cross Keys Fovant.

Further to our conversation regarding Ed's comments on this planning application. I am in broad agreement with his conclusions as there is significant risk of detriment to amenity of any potential residents of the new dwelling. Modern pubs tend to market themselves with music events, both live and recorded. The Licensing legislation takes stance of presumption in favour of 24 hour opening unless noncompliance with the licensing objectives can be clearly demonstrated. Modern music systems have a high wattage output and hence there can have a significant impact on any attached residential accommodation. There are also other sources of disturbance that we receive complaints about including noise from ventilation systems, noise from customers using exterior smoking areas until the early hours and noise generated by customers leaving premises during the early hours.

I note that the Pembroke Arms opposite was given permission for a granny annex which was then sold as a separate property. We treat applications on a case by case basis. Having examined the plans for this application, which neither of us were involved with, I can see that the officer concluded the impact of the pub on the new dwelling was likely to be significantly less because of the internal lay out which places a bathroom and lobby on the adjoining wall between the pub dwelling and there does not appear to be a shared wall(s) with the bar area where entertainment and loud noise would potentially be most prevalent.

The application under consideration indicates and an existing door between the proposed bar and dwelling will be filled with stud work. This totally unacceptable from an acoustic perspective. The wall is a substantial solid construction and any infill would have to be equally robust.

I note windows of the proposed cottage overlooking the cellar are to be filled. I view this as essential.

The impact of noise and odour from the kitchen would also have to be addressed.

If this application were to go against Ed's recommendation (and only in this situation), I would suggest the conditions (11 & 12 below) as an absolute minimum fall back position.

The applicant should be under no illusion that if statutory nuisance were to be shown to exist this department would be required by law to take action. The premise that because someone lives next to a pub they should accept unwarranted levels of disturbance is invalid.

Wessex Water

No objection has been raised and standard advice has been given regarding the need to agree connection to Wessex Water infrastructure, water Supply and surface water disposal.

Wiltshire Council Archaeology

Nothing of archaeological interest is likely to be affected by the proposal and I therefore no comments to make.

8. Publicity

The application was advertised by site notice/press notice /neighbour notification
Expiry date 24/04/09

Third party comments:

6 letters of objection have been received.

Summary of key points raised

- Road is dangerous and proposal would make it worse particularly at access
- Transportation survey confirms that the road is dangerous
- Cross Keys should remain a single entity
- Government guidance states that rural sites should not be overdeveloped
- Noise would be generated spoiling the quite location
- Fumes from kitchen would be a problem
- Increased traffic would cause safety issue
- Second pub in the village in current economic climate
- Property should not be divided off
- Proposal would have financial consequences for the existing public house
- In present climate public houses are closing at an alarming rate
- Two pubs would result in neither surviving
- One pub is enough for Fovant

Two letters of support have been received.

Summary of key points

- This is an excellent idea
- Cross Keys has been much missed
- It would be very convenient to walk to the Cross Keys
- Applicant is willing and able to provide needed service

9. Planning Considerations

9.1 Principle of development

This site is situated within the housing policy boundary, or development limits of Fovant where the principle of development for purposes such as this is acceptable. Any planning application within such areas will be assessed on its own merit and details whilst taking into account other relevant planning policy and guidance.

9.2 Likely impact of the proposal on viability and other local facilities

The planning history above confirms that the Cross Keys has closed as a business in the past following

approval of the current residential use in 1999. The 1999 approval represented the removal / loss of a village facility. The principal consideration therefore was whether the loss detracted from the range of facilities available to Fovant. At the time the village was served by 2 public houses, the Cross Keys and the Pembroke Arms located immediately to the north of the Cross Keys at the A30 / High Street junction. Both establishments had restaurants and beer gardens. The Pembroke Arms offers accommodation. Given their proximity to each other, it was not possible to argue that they served a strategic purpose or identifiably different communities within the village. The use of either establishment was a matter of preference rather than location. Whilst the loss of the Cross Keys did remove choice, the village never the less retained a licensed pub and therefore access to this service was, and still is available. At the time as now, these material considerations were weighty and it would have been unreasonable from a planning point of view to have rejected the proposal. As such it is reasonable to conclude that the applicants had no overriding requirement to demonstrate that the pub was unviable at the time.

However, as with the previous application S/2007/0633, neighbour comments have been received asking that the applicants should now demonstrate that the pub business in the form proposed would be viable thus promoting the proposed change of use. It is clear however, that policy PS3 of the SDLP is intended for use when a business is proposing closure and where a local facility or service will be lost to the local community following a statutory change of use. Again the 1999 application resulting in the loss of the pub was agreed on the basis that such facilities were still provided over the road thus serving the community. As such the proposal was not contrary to policy.

There is not a clear policy framework either nationally or in the local plan seeking to limit service provision in village communities. In fact the opposite is the case and policy would prescribe that additional community facilities should be encouraged where appropriate. As such it is considered that no material weight can be attributed to the comments relating to viability from a town and country planning standpoint. Therefore, it is considered to be unreasonable to resist this proposal for such reasons particularly in terms of refusing this proposal and any subsequent defence of the decision. It is not the purpose of the planning system to limit competition.

The consideration is therefore to what extent is this proposal appropriate with regard to other material planning considerations.

The applicants state that "the main criterion for the planning application is to change the use to Public House to include the reversion of the Cross keys to its original barn and stable form with ancillary accommodation including the extension as granted in the listed building permission of 17th July 2007".

In the previous application it was stated that "The Pembroke Arms opposite has recently applied for a wide ranging liquor and entertainment licence, running from 8 am to the following 3 am, which is likely to appeal to a young clientele. Therefore there is still a genuine need for a traditional public house to serve the older local population and the applicants have received numerous enquiries as to when The Cross Keys will reopen as the pub that it always was. It is worth bearing in mind that the licence only ceased in April 2006, and with the possible increase in activity and noise, which will be generated from the Pembroke Arms, the applicants consider that the continuation of the Cross Keys as a dwelling is unsuitable as it will also be subject to disturbance and noise".

Although the above are comments of the applicants and have not been repeated in this application, they are nevertheless valid from a planning standpoint in so far as local plan policy encourages a variety of community uses intended to serve the wider community. However, the issue of demand for the "traditional" type of pub, and whether any enquiries have subsequently been made giving support for this application is again not a planning matter but is a matter for market forces and local economic factors to decide. Nothing in this application suggests that this proposal would result in an unviable business or, that it would adversely affect any existing business. As such, the proposal cannot be considered contrary to a principle policy in this case, Policy G2 (ii) which sets out criteria against which developments should be considered whilst stressing the importance of avoidance of placing undue burden on existing and proposed services and facilities, (amongst other things). In this case there is no

clear evidence that an undue burden would be placed on these things as a result if this proposal.

9.3 Impact on the amenity of neighbouring properties / should the property be tied?

As the planning history shows, an approval was granted for the change of use of the right hand section of the original pub / hotel to a separate residence in 1995. For both applications the Environmental Health Officer expressed concern about the relationship between residences and adjoining licensed premises, however this change of use has not proved problematic in itself and no complaints relating to noise and disturbance when the Cross Keys was last in use as a pub had been reported.

With regard to this current proposal the plans show that a unit of accommodation, "Cross Keys Cottage"; is in the ownership of the applicant and is within the red line / site area. Discussions since the last application have been had with the applicants concerned with whether Cross Keys Cottage should form part of the proposal as an integral part legally tied to the pub business. It is considered that without the unit the overall area of buildings for the proposed use would be minimal and that this may possibly hinder future viability and potentially resulting in a conflict of uses where noise and disturbance could become an issue. Furthermore, it is not unusual nor is it unreasonable to expect that a public house has accommodation for tourists as overnight stay etc and for accommodation of the landlord / manager. Although the plans clearly show a bed-sit on the first floor next to the function room, the space it provides is very limited. The bed-sit will also share the bathroom / toilet with the function room which could prove problematic. Currently the first floor has accommodation and much of the facilities shown on the plans but, importantly, the remainder of the room is also part of the accommodation and thus it is amply spacious at the moment.

However, whilst the associated residential accommodation is considered to be limited and could be problematic, this proposal will provide accommodation related directly to the proposed use and as such any conflicts with the use are unlikely. Furthermore this can be addressed by condition (suggested condition 6). As discussed earlier whilst it is reasonable to expect more residential accommodation with pubs, this is an ideal rather than a requirement of planning. The only planning basis for tying Cross Keys Cottage to the proposed public house use would be environmental health reasons – noise, smell and disturbance.

The Environmental Health Officer's comments recommend that the property should remain a single unit preventing Cross keys Cottage from being separated off.

Whilst the environmental health comments are material to the determination of this application, it is also considered that a consistent approach must be adopted for this site in common with others. In this respect the applicants have provided additional information in the form of a letter from 'Parker Bullen Solicitors'.

The letter explains amongst other things, that:

"A study of the nearby Pembroke Arms would be instructive. The position there is that similarly, part of the property was sold off to form a separate cottage but the planning permission for the creation of the separate cottage did not include any similar condition. This is despite the fact that, unlike the situation at the Cross Keys, part of the cottage actually overflies an area of the kitchen on the ground floor of the Pembroke Arms, and access to and egress from the rear door of the cottage passes directly in front of the kitchen door and two ground floor bedroom doors of the Pembroke Arms."

The applicants surmise that "the imposition of a condition on The Cross Keys in such circumstances would appear to be inconsistent with the approach previously adopted with the Pembroke Arms and manifestly unfair".

Whilst the environmental health concerns are clear, it is worth considering that processes including extraction, mechanical ventilation and odour control etc are all very strictly controlled under the environmental health regulations and building control. Thus, controls of such exist over and above

planning regulations which would ensure their impacts are not unreasonable. The Environmental Health Officer has recommended conditions that should be imposed if Cross Keys Cottage is not tied to the public house use.

It is considered therefore, on balance, that concerns raised based on disturbance from the proposed use of the pub (kitchen in particular) to Cross Keys Cottage can be adequately dealt with without the need to tie the property as a single unit. In combination with the fact that there are no other demonstrable planning reasons to require a single unit, and in the interest of consistency with other similar approved schemes, a condition or S106 tying the property as a single unit is not recommended by officers.

9.4 Enforcement issues

As previously stated the plans subject to the 1999 approval, clearly illustrated that the unit of accommodation would be accessible via two doorways from the area now proposed as the bar. The 1999 approval granted permission for a single residential unit. However, the access doors are currently blocked up thus forming a separate unit contrary to the approved plans, in breach of a planning condition.

A further breach of the 1999 approval is that the existing internal layout has been altered via a lobby area just inside the end entrance door to the proposed bar area.

Other elements of the proposal to be rectified include the removal of some "Stud Partition" and a brick wall enclosing the old WCs

In addition to mitigating the internal breaches at this property, the application also seeks to mitigate external breaches of planning. These include the shed storage building to the rear and the fencing / means of enclosure that has been erected along the boundary with the road. Neither of these have the benefit of planning permission - required in both cases.

Cross Keys Cottage is currently occupied separately from the remainder of the building and is within the red line of this application. Should members resolve to approve the proposal as recommended (without Cross Keys Cottage being tied to the pub), this separate occupation would no longer be a breach of planning control. As such, it is considered reasonable that the cottage be subject to the requirements of policy R2 of the adopted local plan and be subject to a unilateral undertaking requiring payment of a recreation contribution in accordance with the policy.

Should members require a condition tying Cross Keys Cottage to the public house use, then the current use of Cross Keys Cottage as a separate dwelling will remain unauthorised.

9.5 Design / Character and appearance of the conservation Area / Impact on the Listed building

The applicants state under Design Criteria that the design of the building has been arranged to clearly differentiate between public and staff areas, with the proposed extension being used for the kitchen, cellar and washroom, and the original building for the bar, lounge and upstairs as a function room and staff bed-sit and bathroom. It is stated that the function room will serve the needs of local societies in particular the local history interest group, which is desperately seeking a permanent base to house their military memorabilia and who have made enquiries to the applicants.

This new arrangement / layout will return the ground floor to its former barn-like and uncluttered interior which itself is appropriate from a listed building point of view.

The design shape and form of the proposed extension has been subject to extensive pre-application consultations following the withdrawal of the previous application. The proposed extension is considered to be closely reflective of the advice given and is now considered to be appropriately designed, in keeping with the existing building in terms of scale and massing and in terms of materials. (It should also be noted that an application for listed building consent for the erection of the rear extension and

internal alterations as shown on the current application has already been approved in 2007).

As such the extension part of this proposal would respect the special architectural or historic interest of this grade II Listed building and, the character and appearance of the Conservation Area in accordance with policies CN3 and CN8 of the adopted SLP.

9.6 Highway Safety

As previously mentioned in this report the SDLP through policy G2, also seeks to avoid undue burden being placed on local roads and infrastructure. The Wiltshire Council Highways department have been consulted and in this case have not objected to the proposal. However this is subject to the stopping up of the existing sub-standard vehicular access immediately to the east of the building. The carrying out of this stopping up will be subject to a planning condition requiring completion prior to first use of the proposed development. The highways officer has not raised any concerns regarding the existing parking area to the side of the buildings accessed off the A30 further up the hill and away from the relatively sharp bend in the road. As such the car-parking areas as shown are satisfactory and will also be subject to conditions ensuring that the area is kept clear of obstruction for the proposed use.

It is clear in the letters received commenting on this proposal that highways safety is of significant concern locally. Neighbours for example have pointed out that several accidents have occurred adjacent to the site and that a recent accident resulted in a fatality.

Further to this a report has been commissioned by the owner of the Pembroke Arms opposite entitled "Transport Report" by: Gillian Palmer who is a qualified experience Transport Planner and Chartered Town Planner. The report concludes that the site is unsuitable to revert to commercial development given the road safety issues at the site and the environs and the inadequacy of the car park and its entrance to deal with the expected number of visitors' cars and size of servicing buildings. (The full report is attached as an appendix – minus the photographs which will not reproduce – these will be shown as part of the presentation).

The report has been carefully examined by the Wiltshire Council Highways officers who have not added any further comments than those set out above. Therefore, the highways consideration is as set out above that no highway objections subject to the conditions as stated are raised to the proposal.

In answer to the issues raised by the Parish Council;

Whilst the PC supports this proposal, they have considered that the support is subject to conditions which are set out in their comments. However, the following section addressed those issues raised and the full comments are attached to this report.

- The PC would want to see a section 106 agreement ensuring that the property is conditioned as a single unit:

This issue has been dealt with above. As both elements lie within the red line of the application, this could be achieved by condition. This would also give the applicant the right of appeal against the condition.

- That the proposed ground floor alterations are not contentious:

This is dealt with in the report which considers that they are acceptable.

- The PC support the construction of the extension:

Dealt with in the above report.

- Disabled access to first floor function room will not be possible:

This issue is covered in the 'Design and Access Statement' 'Access Criteria'. It is clarified that "the redesign of the Cross Keys barn area has taken this into account. All new building work i.e. doorways,

floor surfaces and toilets will be fully compliant with the latest regulations. It is felt at this point that wheelchair access to the upper floor will not be possible. The main entrance from the car park will have its wheelchair ramp much improved and access to the rear door of the main barn building will be down a ramp. Access to the central accommodation building of the original three, fronting the A30 will be via the original steps front and rear. This cannot be altered due to the nature of the original listed building being on several levels, but this part of the building has its own facilities within the listed building framework”.

Whilst in this case disabled access does not raise concerns, disabled access is also a requirement of the building regulations and the proposal will have to fully comply with them.

- There being at least one pub in the village is of great importance:
This proposal will not result in the loss of a village pub.

- Recycling facilities currently on car park are should not be displaced to land to the south.

The issue has been raised by the Parish Council, due to the fact that in part the parking area provides space for a village recycling facility. Whilst this provides a useful service to the local community, these facilities are provided by the applicants as a gesture of good will. These issues however, do not constitute a material planning consideration and it is a matter for negotiations between the PC and the applicant.

10. Conclusion

As the committee will now be aware this site has attracted a great deal of interest over time, which has not necessarily always been planning related. However, a very extensive planning history does exist which although not completely, is presented above. This planning history has resulted in a great deal of change to both the site itself, and to the listed building. The changes have increased the numbers of planning units and potential built form on the site, to that illustrated in this application and has in some cases, resulted in detriment to the site and building. Notwithstanding any extant agreements made under previous planning applications, the main planning consideration in this case are derived from the saved policies contained within the adopted Salisbury District Local Plan and Government guidance and statements. In this respect some of the main issues and concerns raised by local people and immediate neighbours have been difficult to mitigate from a planning standpoint.

The issue of viability for example is one. However, in other cases and in particular design of the extension and the improvement of the listed building, it is considered that this proposal will result in an acceptable development and a much improved site.

In addition having consulted the appropriate highways professionals the site can easily accommodate the required level of parking and turning and from a highway safety standpoint, will improve safety by stopping up an existing unsafe vehicular access in favour of a safe one.

As such it is a matter of balance whether this proposal is acceptable. It is considered that this proposal is in accordance with the overriding aims and objectives of current planning policy as set out above, and Government guidance resulting in a development that should be supported from a town and country planning standpoint. The proposed change of use and extension of part of the building to form a new public house is considered to result in a significant visual improvement to the existing building whilst providing a community use against which no demonstrable harm is evident. The creation of a separate dwelling unit adjacent to the proposed public house use is also considered to be acceptable, subject to suitable conditions to limit the impacts of the proposals on residential amenities.

Recommendation

(a) Following completion of a legal agreement for the provision of an open space contribution in

accordance with saved policy R2 of the adopted SDLP in respect of Cross Keys Cottage within 2 months of the date of the committee resolution ;

(b) Approve for the following reason:

The proposed change of use and extension of part of the building to form a new public house is considered to result in a significant visual improvement to the existing building whilst providing a community use against which no demonstrable harm is evident. The creation of a separate dwelling unit adjacent to the proposed public house use is also considered to be acceptable, subject to suitable conditions to limit the impacts of the proposals on residential amenities. The proposal is therefore considered to be in accordance with the aims and objectives of policies G1 Sustainable development, G2 Criteria for development, D3 Extensions, CN3 Character and setting of listed buildings, CN4 Change of use of listed buildings, CN8 development in conservation areas.

(c) And subject to the following conditions

1) No construction of the extension hereby permitted shall commence until details and samples of the materials 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: In the interests of visual amenity and the character and appearance of the area.

POLICY G2 General Development Control Criteria D3 Design of Extensions

(2) No construction of the extension shall commence on site until a sample panel of stonework, not less than 1 metre square, has been constructed on site, inspected and approved in writing by the Local Planning Authority. The panel shall then be left in position for comparison whilst the development is carried out. Development shall be carried out in accordance with the approved sample.

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

POLICY-G2 - General Development Control Criteria D3 Design of Extensions

(3) No external construction works shall commence on site until details of the design, external appearance and decorative finish of all railings, fences, gates, walls, bollards and other means of enclosure have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details prior to the development being brought into use

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

POLICY G2 General Development Control Criteria

(4) No external construction works shall commence on site until details of all new or replacement external chimneys, flues, extract ducts, vents, grilles and meter housings have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.

REASON: In the interests of preserving the character and appearance of the listed building and its setting.

POLICY-CN5 Preservation of character and setting of Listed Buildings

(5) The external flue(s) shall be finished in a matt black colour and maintained as such thereafter.

REASON: In the interests of preserving the character and appearance of the listed building and its

setting.

POLICY-CN5 Preservation of character and setting of Listed Buildings

(6) Upon the public house hereby permitted being brought into use, the residential accommodation provided on the first floor of the public house premises (illustrated on the plans DB901 Floor Plans Proposed First Floor), shall be occupied ancillary to the use of the building as a public house as a single planning unit and shall not be occupied at any time by any persons unconnected with the public house.

Reason; The Local planning Authority wish to ensure that the accommodation remains available for the approved use and in the interest of the amenity of the occupiers of the accommodation.

(7) Within 1 month of the date of this permission the access situated immediately to the east of the building shall be permanently stopped up for vehicular use *in accordance with a scheme which shall have been submitted to and agreed in writing by the Local Planning Authority.*

Reason: In the interests of highway safety.

Policy G2 General Development Control Criteria.

(8) Within 1 month of the date of this decision, two parking spaces shall be delineated and marked out on the ground as reserved for the use of the occupiers of Cross Keys Cottage in accordance with a scheme which shall have been submitted to and approved in writing by the Local planning Authority. Such markings and reservation for the use of Cross Keys Cottage shall be retained thereafter.

Reason in the interests of the provision of adequate off street parking-

(9) The use as a public house, hereby permitted, shall not take place until details of the treatment of the boundaries with Cross Keys Cottage have been submitted to and approved in writing by the Local Planning Authority. Any tree screening, hedges, walls or fences thus approved shall be planted/erected prior to the public house hereby permitted occupation of the building[s].

Reason in the interests of amenity and to avoid conflict with adjoining users of the car park. Policy G2

(10) No construction or demolition work shall take place on Sundays or public holidays or outside the hours of 8.00am to 6.00pm weekdays and 8.00 am to 1.00pm on Saturdays.

Reason in the interests of the amenities of nearby residents. Policy G2.

(11) The use as a public house, hereby permitted, shall not take place until measures to protect the adjoining residential property against noise from the public bar, and any ventilation plant, refrigeration motors, air conditioning or similar equipment have been installed in accordance with details that have been submitted to and approved in writing by the Local Planning Authority

Reason in the interests of the amenities of adjoining residents. Policy G2

(12) The use as a public house, hereby permitted, shall not take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme for the control of odour and fumes from extractor fans, ventilation equipment or similar plant. Such a scheme as is approved shall be implemented to the satisfaction of the Local Planning Authority before any part of the public house development is brought into use.

Reason in the interests of the amenities of adjoining residents. Policy G2

INFORMATIVES:

The applicant should be under no illusion that if statutory nuisance were to be shown to exist The Department of Public Protection would be required by law to take action. The premise that because someone lives next to a pub they should accept unwarranted levels of disturbance is invalid.

The Developer is reminded of the requirement to protect the integrity of Wessex Water systems and agree prior to the commencement of works on site, any arrangements for the protection of infrastructure crossing the site. This should be agreed as early as possible and certainly before the developer submits to the council any building regulations application. The developer must agree in writing prior to the commencement of works on site, any arrangements for the protection of Wessex infrastructure crossing the site.

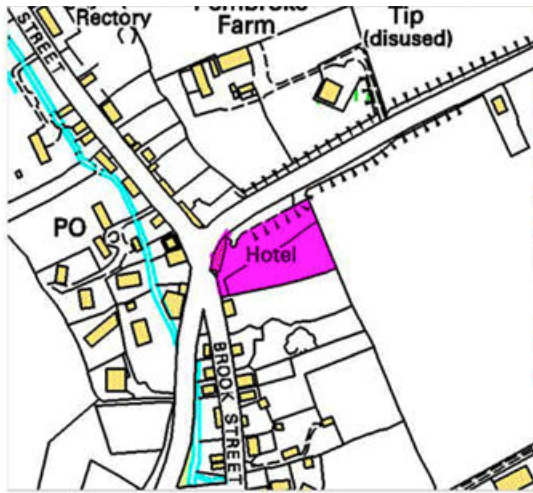
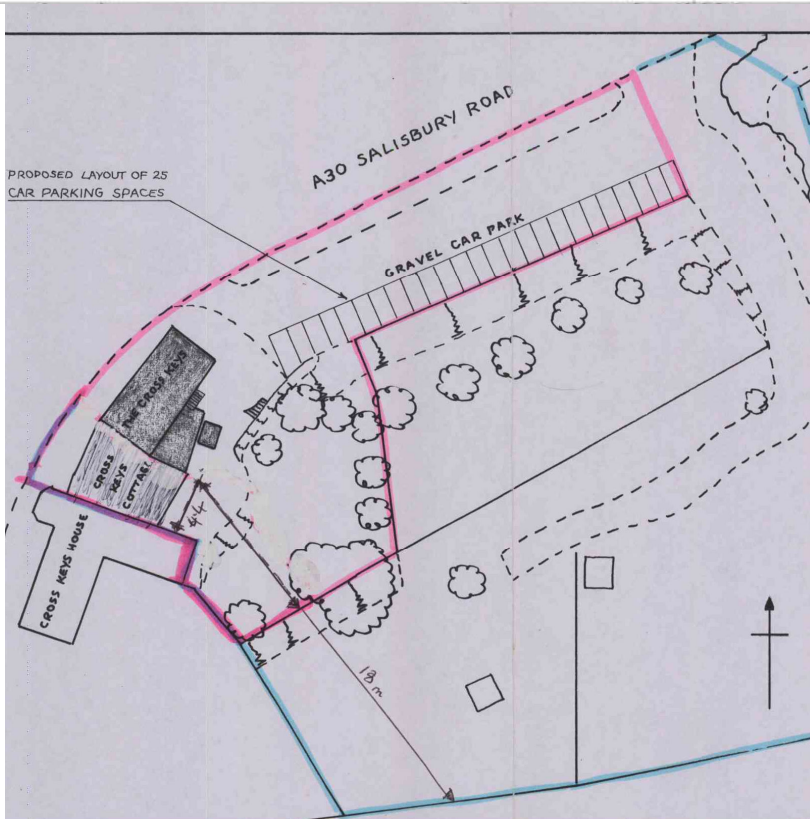
(d) Should the S106 Agreement not be completed within the time period the decision be delegated to the Director Of Development .

Appendices:	Appendix 1: Parish Council comments / received 30/03/09 Appendix 2: Transport Report and covering letter / received 06/04/09
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Background Documents Used in the Preparation of this Report:	Drawing Nos; DB901 Floor Plans, Existing and Proposed DB902 Elevations and Block Plan 903 A Cross Keys Cottage, Floor Plans 903 B Cross Keys Cottage, Floor Plans 904 North Elevation to main road
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Site Visit:

S/2009/307



Wiltshire Council
Where everybody matters

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APPENDIX 1

Fovant Parish Council

Parish Clerk : Mrs Elizabeth Young Telephone/Facsimile: +44 (0)1747 870528

APPLICATION REFERENCE NO: S/2009/0307

Proposal:
Full application: single story rear extension – internal alterations - change of use to public house

Address: The Cross Keys Shaftesbury Road Fovant

At a meeting held on Tuesday 24 March 2009 the Parish Council considered the above application and has the following response to make:

- | | |
|-------------------------------------|--|
| <input type="checkbox"/> No Comment | <input checked="" type="checkbox"/> Support (Subject to conditions as set out below) |
| <input type="checkbox"/> Support | <input type="checkbox"/> Not supported (For reasons as set out below) |

Councillors in attendance: R Bell; Mrs A Harris; A Phillips; Mrs G Law;

Declarations of Interest: Mrs P Story (applicant)

Please see following three pages.

EA YOUNG
Parish Clerk Fovant Parish Council

25.03.09

Application S/2009/0307

Background

Cross Keys is the section of the old Cross Keys Hotel remaining after Cross Keys House (the western part of the Cross Keys Hotel) was sold and became a residence. The remaining part of the old hotel, Cross Keys, has two visibly different sections, the one nearest to Cross Keys House having a lower roof line. Currently the owner and applicant uses the term "Cross Keys Cottage" to describe that section and "The Cross Keys" to describe the larger and higher section to the East. Those terms are used on the plans and will be used in this document.

An earlier application, S/2007/0633, similar to the present application, was approved by the Western Area Committee on 21 June 2007. However, it was conditional on a Section 106 agreement being signed which would bind Cross Keys Cottage to the Cross Keys. The Section 106 agreement was not signed so the grant of planning permission for building work and change of use to public house lay dormant. Subsequently the applicant withdrew the application. The present application is, in effect, a resubmission with only minor changes.

The Parish Council notes that "Cross Keys Cottage" has been physically separated from the rest of Cross Keys. Drawing DB901 shows the existing blocks as stud walls and their planned replacement with more substantial structures.

Section 106

The parish Council considers that, if change of use to public house is approved, there should be a Section 106 undertaking to ensure that the property in the ownership of the applicant adjoining the proposed public house (ie Cross Keys Cottage) shall not be sold off or let separately from the business and that approval of the application for change of use be conditional on the prior signing of the Section 106 undertaking. This repeats the Western Area Committee Resolution of 21 June 2007.

Recommended condition. Require Section 106 agreement

Internal alterations (ground floor)

The proposed internal alterations to the ground floor layout are not contentious.

Erection of a single story extension at the rear of Cross Keys providing kitchen, cellar and washrooms.

The Parish Council, having considered the extension plans and examined the existing facilities, and having regard to the construction materials specified and the roof pitch complementary to the existing listed building, support the construction of the extension regardless of whether or not change of use to Public House is approved.

Providing, on the first floor, a function room and staff bed-sit.

It is proposed that the first floor function room/staff bed-sit be reached by a flight of exterior stairs.

The Access Criteria section of the application states "It is felt at this point that wheelchair access to the function room on the first floor will not be possible". (Application s/2007/0633 had also included the

words “although the possibility of some form of external lift may be possible at a future date” but that is not in the present application.)

The Parish Council appreciates the difficulties of providing satisfactory access to the first floor. However, satisfactory access is not only needed for wheelchair users but also the elderly and children, and for the movement of food and drink.

The Parish Council considers that the provision of satisfactory access should be dealt with now and not deferred.

The Parish Council notes that the first floor bathroom facilities are “unisex” and are to be used by both members of the public using the function room and the occupant of the staff bed-sit. We question this arrangement and request that the planning staff check that this conforms to current rules and good practice.

Recommended condition. Provide disabled access to Function Room.

Recommended action by Planning Department. Review “unisex” toilet arrangements for conformity with current rules and good practice.

Recycling and parking

At present the owner and applicant allows part of the car park area to be used for a re-cycling site. The plan indicates that the whole area will be used for car parking associated with the proposed pub business of the Cross Keys. The Parish Council recommends that the recycling activity displaced should not be moved to ground to the south of the car park to avoid adverse impact on an important part of the AONB landscape.

Recommendation. That the recycling activity displaced should not be moved to ground to the south of the car park.

Change of use to Public House

The present application gave rise to two contrary threads of debate:

- a. Thread 1. The introduction of a second pub could result in the loss of both pubs because of:
 - (1) The available village trade being divided between both.
 - (2) Both having to pay business tax (not paid if a village has only one pub).
 - (3) Further reductions in sales while the country remains in recession.
- b. Thread 2. The desirability of encouraging new businesses.

We have no data about either of these two considerations. In view of the large number of village pubs closing, and the adverse social consequences of those closures, we consider it likely that there will have been formal studies at local and/or national level which could provide data on this matter. We therefore request SDC to seek information/evidence to inform the judgement which must be made.

We must stress that there being at least one pub in the village is of great importance to the whole village.

Recommended action by SDC/WCC. Investigate the availability of information relating to pub closures which may inform discussion and decision in this case.

Transportation Report

Cross keys, Fovant, Wilts SP3 5JH:

Application number S/09/0307.

Single storey rear extension, internal alterations, and change of use to public house.

Introduction.

I am Gillian Palmer BSc MSc MIHT, MCILT, MRTPI, Transport Planner and Chartered Town Planner. I have over 30 years experience of transport planning, including more than 20 years in dealing with the traffic, access and servicing aspects of planning applications. I have been retained by Mr Barrett of the Pembroke Arms to present this report in support of his objection to the above development.

My conclusion is that the site is unsuitable to revert to a commercial development given the road safety issues at the site and its environs and the inadequacy of the car park and its entrance to deal with the expected number of visitors' cars and size of servicing vehicles.

The Site.

I visited the site on 20th March 2009. The site is situated on the south side of the A30 Salisbury Road on the inward aspect of a sharp bend and on a downward gradient on the approach to Fovant village. The site comprises the eastern section of the building which I understand has been a pub/hotel dating back for centuries. The western most section is now a private house. The middle section is a separate cottage, currently

vacant. I understand that it is the Council's intention that this centre building be retained as ancillary residential accommodation to any proposed pub. The section of the building which is the subject of this application was converted to a private dwelling in 1999.

The site includes the original parking area for the previous pub. This is currently used by the applicant for parking, and recycling facilities are also located there. There are proposals for another dwelling to the south of the site (02/2196) which would also use the access to the car park. This car park originally had 2 entrances, one opening within 25 m of the apex of the sharp bend. It is likely in the past that the car park operated a one way arrangement, with vehicles accessing the car park from the east side and egressing via the western access. This would have obviated the need for vehicles to turn round within the site as they would be obliged to do now. This entrance was closed on the advice of the Highway Authority, and its closure was a condition of a previous application. The remaining entrance to the car park is 80 m from the apex of the bend. The main carriageway at this point is 7m wide

The Proposal.

The proposal is to convert the east part of the Cross Keys building back to a public house. This proposal is similar to S/2007/0633, (withdrawn). There is a long history of applications relating to this site which I will not rehearse in this report. The proposal comprises a ground floor bar area (approx 60 sq.m) and a single storey rear extension to provide kitchen and lavatory facilities.

A function room is proposed at first floor level (approx 35 sq.m.), and an extremely small residential bedsit is also proposed. It is of note that it is proposed that the residential bathroom would be used by the public. An outside seating area may also be incorporated, though this is not clear from the application drawings.

Previous Transportation History.

I have read the great deal of correspondence and reports provided to me by my client, and it is clear that this section of road causes great concern to residents, commercial occupiers and council Members and officers alike. There is a long history of discussions between the Highway Authority (WCC), Salisbury District Council, the Police and the Parish Council going back several years regarding traffic management measures to improve the safety record at this site.

Of particular concern is the speed of traffic approaching the bend and the tendency of drivers travelling south west to misread the sharp left hand bend in the road, with subsequent loss of control. I am advised that there have been 18 accidents in a 3 year period including both damage only and personal injury accidents. Several of the accidents have resulted in damage to buildings, causing the occupier of the Post Office to take steps to protect the property with barriers. I understand that there was fatal accident involving a motorcyclist in 2008. The accident record at this location should be well known to the Local Planning Authority. I note that the Highway Department (WCC) do not object to the proposal, and I am surprised that they have not commented on it in more detail, given the level of interest in road safety at this location. Various measures have been put forward to mitigate accident risk and some have been implemented. A traffic management scheme was introduced in October 2005, which included measures to make the island at the junction of more visible to drivers, and to improve carriageway markings, for example "SLOW" markings. Other measures relating to a signage review are on hold pending the results of a county wide review of speed limits. At present a 40 mph limit is in force, with reinforcement, as promoted by the Parish Council, by a vehicle activated flashing sign on the approach to the bend. The data from the speed sign shows a consistent 21% of vehicles sampled exceeding the speed limit.

The proposals for various safety measures at this site continue to be investigated by WCC and SDC, including further carriageway markings and signage. The authorities are rightly concerned to avoid over cluttering with signs.

Comments on the Application.

The car park measures approx 10 m in depth. This is not sufficient for cars to be parked at 90 degrees as shown on the proposed plan. They will need to be parked in an "echelon" arrangement in order to allow sufficient space (6m behind the vehicle) for drivers to manoeuvre in and out of the spaces. There is little space for vehicles to turn round within the existing site. It would not be possible to achieve 25 spaces as shown on the application drawing. Certainly the spaces shown are less than the normal standard of 4.8m x 2.4m. I calculate that approximately 15 - 17 spaces of an operational standard could be achieved.

The pub will generate both customer and servicing traffic. Although many visitors would be local people and therefore likely to travel on foot, the pub would inevitably attract customers from further afield who will arrive by car. The style and nature of a proposed pub cannot be controlled by planning conditions. Although a quiet traditional pub may be envisaged, any operator will be seeking to maximise customer numbers and therefore profit. An operator concentrating on good food for example may seek to attract customers from a wider area. If successful, the pub could accommodate 100 people (standing, depending on fire and other regulations), and the function room 20 seated, and possibly more standing. The garden area could accommodate an additional 30 or more people. The smoking laws mean that outside areas are used much more at all times of the year, and cannot just be regarded as "summer daytime" facilities. Assuming that 30% would walk, and the other 70% would come by car, I estimate that 35% of customers would be car drivers. With 100 people in total, 35 cars would be generated, twice the capacity of the car park. Assuming a busy pub, people in the garden and a function on the first floor, then the capacity of the car park would be

4

exceeded on a regular basis. Some of the spaces would in any case be used by staff and any residential uses at the site. Overflow parking would result in an extremely dangerous situation with drivers tempted to park in unsuitable locations within the car park itself or on the public highway. The development would result in significant turning traffic in and out of the access, especially during the evening during the hours of darkness, and where there is no street lighting. This hazardous situation would be exacerbated if the car park was overfull.

The pub will require deliveries of beer, foods and other consumables, as well waste collections etc. I estimate that there could be at least 1 or 2 servicing trips per day, and I am concerned that problems that will occur with servicing of this site. I note that the site entrance is shared by a development site to the south. I attach a photograph provided by my client that shows the difficulties of a Large Goods Vehicle leaving the site. This would be exacerbated by parked vehicles within the site. I have checked the layout of the car park with vehicle template overlays produced by Autotrax to 1:200 scale. Large vehicles, for example a 9 metre refuse lorry, would not have sufficient space readily to turn round within the site, a manoeuvre that would be impossible if parked cars were present. When leaving the site, it would not be possible for drivers of large vehicles to position the vehicle correctly in order to achieve a left turn into the main road without going over to the opposite traffic lane. (see photo in Appendix) The situation would be compounded if a larger vehicle, e.g. 11m were to be attempting this manoeuvre.

The pub would give rise to increased pedestrian traffic. There are already problems for pedestrians crossing at this location, with poor sight lines, fast moving traffic, lack of street lighting and a complex road junction to contend with. The potential for vehicular/pedestrian conflict would be made worse by additional pedestrian volumes.

Summary and conclusion

A pub /inn has existed on this site in the past for centuries. However, the way the road now operates in terms of volume and speed of traffic, and the difficult conditions on the road at this location despite various measures to address them, means that in my opinion the site is *unsuitable in traffic and road safety terms to be reinstated as a public house*. The reasons are:

The car park is too small for the number of cars likely to be attracted to the proposed pub;

The layout of the car park could not be achieved as shown on the plan, and would achieve significantly fewer spaces;

There is insufficient space for goods vehicles to turn round in order to leave the site in a forward gear especially if cars were present;

The orientation of the entrance to the site would not allow large vehicles to leave, turning left, without crossing to the opposite side of the road;

Pedestrians attracted to the pub would be at risk crossing in this location, given the hazards present.

I would respectfully suggest that planning permission is refused for this commercial development.

GMP 6/4/09

*Gillian Palmer BSc MSc MIHT MCILT MRTPI
Transport Planner and Chartered Town Planner*

APPENDIX 3

Contents:

- 1. Letter from applicant following Southern Area Committee meeting November 2009.**
- 2. Parish Council comments.**
- 3. Conservation Officers comments.**
- 4. Summary of Neighbours comments and letters received.**
- 5. Letter from AONB**

LETTER FROM THE APPLICANT FOLLOWING THE SAC MEETING HELD 18TH NOVEMBER 2009

Submission of IDEAS for any changes to written report

I was very worried by the hidden agenda of County Councillor Tony Deane and Fovant Chairman Councillor Nigel Knowles. I have contacted by email Janet Lee on this and other matters with regard to the conduct at the Meeting. The exemplary conduct of the Chairman should be praised!

- 1) Remove any reference to Pembroke Arms Function other than the Cottage Reference
- 1a) Can the name Function room be changed in any way to reflect the real use of Meeting Room/Village Office with all the printing equipment I have for our Three Towers Community Magazine. I am Editor
- 2) Make it plain the new Notice was posted on (24/04/09) and has been in position for 6 months
- 3) Add the date of the Car Park Permission by SDC to the relevant dates and the fact that it has been in use since that date with no problems or accidents attributed to it.
- 4) Recycling vehicle in photo. At my discretion and visit the site 6.30am to 7.30am (having seen Mr Barrett with his camera they no longer exit in this fashion, they do it within the site)
- 5) Parking spaces Minimum of 20 with 2 for cottage as extra where the stable is positioned
- 6) Highways western exit already closed (15 months- still to be approved)
- 7) Up to date photos of car park and buildings? Mr Barrett's taken prior to final clear up of the composting site in the car park.
- 8) Explain Mr Barrett's report by Highways Expert was done prior to this change in the Car Park. Work was done in the summer months.
- 8) Emphasis new Staircase to upper floor.
- 9) Cottage has always been on plans with work completed in 2004 as per Planning Application. Cliff Lane visited the site.
- 10) Cottage only occupied from July. I had expected the permission to have been granted when I signed the Lodgers agreement with the Mother of the Couple .They were coming from US to assist Mother/Father and myself.
- 11) Licensing of the premises should not be a matter to be brought forward to the Committee, nor should the recent licensing of the Village Hall for the **occasional** Function be a reason for refusal as touted by Mr Barrett in his speech.
- 12) Accidents on the road – it must be emphasised they are nothing to do with my property and they are no more or less than over the 28 years I have live here and run a business from this premises. Mr Barrett is so new to this and gets so agitated. No accidents of people being hit by traffic from either direction on this bend despite the numerous pedestrians who cross from Brook Street to the Shop, Post Office and Pembroke Arms and then in reverse to The Cross Keys.

Finally

The sad death always touted by Mr Barrett, was a motorcyclist entering the village from Shaftesbury, overtaking and ending up braking hard and going over the handlebars of his brand new Harley Davidson in unsuitable clothing. Only his head (in a cycle helmet) hit the rear panel of the car turning into the village. A tragic accident for a lovely family. NOT TO BE PARADED AS A REASON

FOVANT PARISH COUNCIL

APPLICATION NUMBER S/2009/ 0307 (rev) dated 26 Nov 09

Proposal: Single Storey Rear extension, internal alterations to Gde II Listed Building, and Change of Use to Public House and separated Residential Dwelling

Address: The Cross Keys,
Shaftesbury Rd, Fovant, SP3 5JH.

At a meeting held on Tuesday, 8 December 2009, at 6.30 pm the Parish Council considered the above application and has the following response to make:

In Attendance: Cllrs Mrs Harris, Mrs Law, Mrs Story, Leppard, Wyatt, Phillips and Knowles

Applicants: Not present **Public:** Mr D Davies, Mr Bell

Declarations of Interest: Cllr Mrs Story

Site Visit: No

Cllrs in attendance: N/A

No comment	
Support	
Support subject to conditions	
Object	√

Suggested special conditions/reasons for refusal based on local knowledge

Council reviewed the WC Planning Hub letter dated 26/11/2006 which referred to the recent additional scope of the original planning application to a new description adding "and Dwelling House", and advising an extension of time to 16 Dec 2009 for receipt of comments relating to this aspect. Council observed that no new documentation had been received with the letter and therefore used as points of reference the original planning documentation and the most recent Officers Report to the Southern Area Planning Committee meeting on 19 Nov 2009.

Decision: Councillors unanimously voted not to support the application, by reason of:-

- (i) the Parish Council was being asked to comment on a change of scope to include the regularisation of the present unlawful separation to form of a new dwelling, although there is no documentary evidence that the Applicant has actually formally requested such a new dwelling.
- (i) Environmental concerns as previously high-lighted by the Parish Council and Environmental Services Dept.
- (ii) Health & Safety issues with respect to first floor access, external access to cottage section and public access.
- (iii) Highways issues as identified in the Independent Report and noting approx 30 accidents/1 death at the junction.

Elizabeth Young (Mrs)
Dated: 9 Dec 2009

CONSERVATION CONSULTATION RESPONSE

To: Andrew Bidwell

Ref: S/2009/307

Location: Cross Keys, Fovant

Proposal: Single storey rear extension and internal alterations and change of use from dwelling to public house and dwelling house

Comments by: Elaine Milton

Date: 7th January 2010

**Conservation,
Development Services
South**

Comments

The application for listed building consent for the erection of the rear extension and internal alterations to subdivide the public house from 'Cross Keys Cottage' has been approved under reference S/2007/0634.

I have no additional comments on the physical works to the building to those made under S/2007/0634. The guidance in PPG15 is that the best way of securing the upkeep of historic buildings is to keep them in active use, and that the best use is normally the use for which the building was originally intended. In this respect, the change of use of part of the building back to public house would seem to be appropriate.

SUMMARY OF NEIGHBOUR COMMENTS RECEIVED AND LETTERS

- **Another public house is not needed**
- **To add more traffic to this stretch of road would be dangerous**
- **An increase in road traffic will increase risk to pedestrians**
- **The market for two competing businesses is not large enough to support both**
- **Parking on the site could be a problem and is inadequate**
- **No need for another pub in Fovant**
- **The property should not be divided into another dwelling**
- **The proposed separation suits the present applicant but may seriously limit a future owner**
- **The property is unsuitable to re-open as a pub due to its dangerous position on a blind bend**
- **Fovant could end up with no pub at all**

S/09/0307

Hazeldene
Sutton Road
Fovant SP3 5LF

Planning Department

Rec.	25 NOV 2009
Acknowledged	
Copy to	AB
Action	

Chairman
Fovant Parish Council

22 November 2009

Dear Sirs,

Planning Application S/2009/309: Cross Keys

We have been somewhat surprised to note in the Parish Council Minutes that the Cross Keys has once again applied for change of use.

When we moved to the village in 1983 there were 3 pubs, a school, a village shop, a post office, a butcher, a haberdashers and a school. By a near miracle the village shop, the post office and one pub have survived. The village simply could not support three pubs and, as we understand it, reached the stage where none were viable until both the Poplars and the Cross Keys (+ the nearby Lancers) closed. The Pembroke struggled on through various mismanagements and is at last becoming an asset to the village, which one would hope will continue to gain support and become financially viable.

There is a very real danger that we will lose our only remaining pub if it has to share the custom it is building up with a second pub. The Cross Keys ceased to trade some years ago for reasons which are even more valid now and I see no merit in allowing a change of use.

This letter is submitted for your consideration.

Yours faithfully,


R & S.B. Dixon

Copy to: Salisbury District Planning Office. ←

Planning Department

Rec. 01 DEC 2009

Acknowledged

Copy to

Action

AB

Hazeldene
Sutton Road
Fovant SP3 5LF

Area Development Manager
Wiltshire Council
61 Wyndham Road
Salisbury SP1 3AH

29 November 2009

Dear Madam,

Planning Application S/2009/300⁷: Cross Keys

Thank you for your letter of 26 November.

Once upon a time, the Cross Keys was a public house with accommodation. Mrs Story then sold off the attached dwelling house (Cross Keys House) and ceased to trade as a pub, understandably, as she had become more disabled.

I am not a pub regular but I do enjoy the occasional meal at our existing pub, as I understand do many of the local senior citizens.

I refer to my letter of 22 November and simply reiterate my concerns that if the Cross Keys reverts to a licensed public house Fovant will end up with no pub at all.

There is also of course the issue of more traffic on that dangerous bend.

I do not therefore feel that it is in the best interests of the village to grant this application.

Yours faithfully,


S.B. Dixon (Mrs)

This data was entered into the form at <http://www.salisbury.gov.uk/planning/development-control/planning-applications/2009/0307/submit-comment.htm>

I agree to the disclaimer above **Yes**

I wish to **Object**

Name **Lisa Bailey**

Address **13, The Elms, Fovant, Wiltshire.**

Post Code **sp3 5jz**

Comments From reading the proposed changes to the Cross Keys, including the application to open the property as a public house, I would like to object. The grounds on which I am objecting is that I am greatly concerned that due to the speed of vehicles and number of accidents that occur on that bend, there could be a fatal accident to villagers using the premises when they cross from the Cross Keys back to the High Street. I have also observed that the parking would also create a problem, as there is only one entrance and exit to the Cross Key property. This could potentially create a problem when lorries deliver beer/sundries to the premises. I have also used the car park there for dropping off recyclables and found it difficult to see traffic coming from both directions. As opening the premises as a public house, this would therefore potentially increase traffic on the A30 at an already treacherous bend, and increase the problem. I would also like to add that we already have one public house in the village, which I understand is struggling to survive in such difficult times and the opening of another would not help the situation.

**Yours Sincerely,
Lisa Bailey**

If you wish to be emailed a copy of your comment, tick this box **Yes**

Entered Wed Dec 02 2009 23:06:47 GMT+0000 (GMT Standard Time)

Planning Department
Rec. 15 DEC 2009
Acknowledged
Copy to AB
Action

Fovant Post Office
High Street
Fovant
SP3 5JL

14/12/09

Ref: S/2009/307/FULL

Planning application at Cross Keys, Fovant

Dear Sir/Madam,

I am writing to object to the above planning application.

The entry/exit to the car park of the Cross Keys is on a very dangerous stretch of the A30 near the junction with Fovant High Street. This has been the site of several accidents in the past few years, as we know to our cost at the Post Office. Traffic using the Cross Keys will only worsen this situation in my opinion. There has even been an accident since the flashing warning sign was installed, even though in this case our neighbour's wall was demolished instead of the frontage of the Post Office.

Yours sincerely

R. HALL

**Wren House
Bridge Gardens, Tisbury Road
FOVANT, Salisbury
Wiltshire, SP3 5DT**

Planning Department	
Rec.	16 DEC 2009
Acknowledged	AB
Copy to	
Action	

FAO: Andrew Bidwell Esq
Development Services
Wiltshire Council
61 Wyndham Road
Salisbury, SP1 3AH

14th December 2009

Dear Andrew,

Planning Application Ref: S/2009/307/FULL ("CROSS KEYS" FOVANT)

Thank you for the letter dated 26th November 2009 regarding the above planning application and the proposed change in description for this application. I wish to make the following points regarding the proposed development as a whole and not just related to the dwelling house adjoining the public house.

As a relative newcomer to the village of about 3 years I have only ever known the Pembroke Arms as the public house for the village. Another public house is not needed in this village and certainly not one so close to where the Pembroke Arms is now. The potential noise, traffic and environmental issues within such a small area located on a major road surely deem this impractical. When the Cross Keys was last a public house the smoking ban did not exist, people did not go outside late at night as there was no need, longer opening hours were also not applicable and traffic has no doubt increased since that time. Now it could be the case if this plan were approved that late at night groups of people from 2 pubs within yards of each other could be outside smoking and creating noise levels that are just not in keeping with such a small village and in turn have a detrimental affect on the whole area.

However my final point which I touched upon briefly is indeed the most important. I have stood outside the Pembroke and spent time watching the A30 road and vehicular access from there into Fovant High Street and Brook Lane and the car park of the pub. To add more traffic and access of this tiny stretch of the busy and dangerous A30 would be an accident waiting to happen. I have no doubt whatsoever that should this application be approved and you have 2 public houses on the tight bend of a major trunk road that accidents will happen and serious ones at that, a 2nd pub will cause chaos and pose a serious threat to the safety of Fovant already undermined by a lack of speed prevention on the aforementioned stretch of A30.

This application will not add anything to the village. It will simply congest the area, impose safety and environmental issues and have a detrimental affect on Fovant and it for these reasons I object to this planning application.

I thank you for your time and consideration to my issues.

Yours sincerely,

Christopher Taylor (Mr)

Mrs J Howles, Area Development Manager

Wiltshire Council

61 Wyndham Road

Salisbury

Wiltshire

SP1 3AH

Dr D.P.Walters

Flanders Field

Brook Street

Fovant

Wiltshire

SP3 5JB

Planning Department	
Rec.	17 DEC 2009
Acknowledged	
Copy to	AB
Action	

Ref: S/2009/307/Full

Dear Mrs Howles

I wish to comment on the above planning application. The application includes the request for restoration of the Cross Keys as a public House. In my opinion the situation of the building makes it totally unsuitable to open once more as a public house owing to its dangerous position on a blind bend. The increased traffic pulling out of the car park would make further accidents far more likely. It is already an accident black spot with several serious accidents already having been recorded. For this reason I propose that the application is rejected

Yours sincerely

David Walters

Dear Sirs,

Further to my original objection and transportation report, having read the officers reports, I would like to bring to attention many of the inaccuracies, stated by all parties.

1. Size of Car Park

The size of the parking bays are minimum industry standards. the reference is the Manual for Streets, published by DFT, 2007. I attach a link.

<http://www.dft.gov.uk/pgr/sustainable/manforstreets/pdfmanforstreets.pdf>

Paragraph 8.3.49 states that:

“for echelon or perpendicular parking bays will need to be indicated or marked. Bays will need to enclose a rectangular area about 2.4m wide and a minimum of 4.2 m long.

I would suggest that your officers, go back and re-calculate, as there could not possibly be 25 available parking spaces.

I also suggest that a commercial vehicle needs 14.5m to turn around without reversing; therefore the exit as per our original photographs, the car park is not suitable. With vehicles in her proposed car park, surely this would not be possible within the site.

2. Highways

I challenge the number of accidents occurring on this bend, as I know as a resident on this road there have been a much higher number than the 3 stated by your Officer. I am gathering the evidence to this fact and will submit it to you.

With the new proposed 50 mph speed limit, surely this will make entry and exit (by foot or vehicle) from any part of these premises, highly perilous.

3. Environment

It appears that notice has NOT been taken of the Environmental Health Officer's report on this application.

4. There is Planning Consent for a Bungalow on the back part of this concerned property's land, which if built, would add to the overdevelopment of this site, as per AONB guidelines, also this would impact more on this junction.

5. The function Room is totally unsuitable, for either a 'village office' or 'meeting room' or any other kind of Public space, as there is a lack of Fire Escapes. And if as the Applicant says she is the Editor of the Parish magazine, and sadly disabled, how is she going to be able to access this office?

6. The cottage as far as I am aware has been occupied on and off for 3 years, however, the applicant has stated that it has only been occupied

from July. It is known that there were people, who were having their house constructed in the village, renting the cottage. I do have further photographic evidence to support my objection if required Yours Sincerely

M. Barrett

Dear Sirs,

I wish to object on Planning Application s/2009/0307.

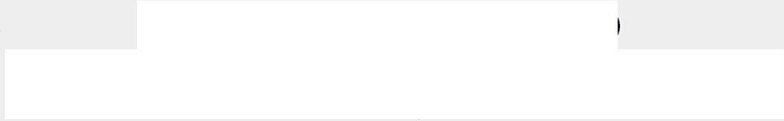
I wish to object on the grounds of

- 1 I do not feel that there is a need for another Public House in Fovant, as one pub can barely survive.
- 2 I know that the road is already unsafe, surely by putting another busy access point on this road will make it even more so.
- 3 It is not correct that the property should be divided into another dwelling as it does not have sufficient fire escapes.

Yours Sincerely

J. Ring
Ashfield
Tisbury Road
Fovant

Cross Keys House, Fovant, Salisbury SP3 5JH



December 16, 2009

Planning Department

Rec.	18 DEC 2009
Acknowledged	
Copy to	A.B.
Action	

The Area Development Manager
Wiltshire Council

Dear Madam
Your reference S/2009/307

We are replying to your letter of 26 November 2009. We are immediate neighbours to Cross Keys.

The Planning Decision of 2000 that the Cross Keys should not be subdivided further, reinforced in a subsequent planning meeting in 2007 which required the applicant to sign a Section 106 agreement on this matter, would be reversed by this application. There is no supporting material with this revised application to justify the reversal of an earlier planning decision, despite the fact that creating a public house with just one small unit of accommodation not directly accessible from the bar area undoubtedly raises questions about the character of the public house. The proposed separation may suit the present applicant, but it surely seriously limits options for any future potential owner.

Without discussion on these matters we cannot support the application.

Yours faithfully



1.4.12/09

Royal Mail

Forward Sub Delivery Office -

Forward

SP3 55H

Ref. S/2009/507/Full.

Dear Sir/Madam,

I would like to object to the change of use of the brass keys to be coming a Public House.

The extra traffic that this would generate close to a hazardous bend which should be recognised as an accident "black spot" would increase the likelihood of more crashes into the adjacent properties and other vehicles. This together with a speed limit

increased to 50 mph will make this stretch of the road even more dangerous.

Yours sincerely,

B. Harte (MVC)

Subpoena

Planning Department

Rec.	15 DEC 2009
Acknowledged	
Copy to	AB
Action	

Mr A Bidwell
Wiltshire Council
Planning Office
PO Box 2117
Salisbury
SP2 2DF

Planning Department	
Rec.	03 DEC 2009
Acknowledged	-----
Copy to	-----
Action	-----

Mr N M Little
Lancers House
Sutton Mandeville
Salisbury
SP3 5NL

Date: 2nd December 2009

Planning Application Number 8/2009/0307

Dear Mr Bidwell,

I feel compelled to write to you with regards to the pending application mentioned above.

My four main concerns are based upon the assumption that the application is approved and relate to the change of use to a public house, I would therefore ask that you give these matters due consideration.

Road Safety

The Pembroke Arms in Fovant is my companies preferred destination for accomodating both staff and business colleagues, I have unfortunately witnessed first hand how traffic uses this section of the A30 and on more than one occasion have either helped to marshall the traffic or gone to the assistance of drivers that have crashed. To create a further access point for commercial traffic at this section of the road appears to increase the risk of accidents and therefore possible further fatalities. I feel sure the Council will have investigated this risk as well as the feasibility of cars and lorries entering and exiting from the same point at the same time, but felt that this needs to be mentioned.

It would be horrific to witness a further tragedy that may have been avoidable and it would be devastating should this involve one of my staff or business colleagues.

Public Safety

Increasing the road traffic on the A30 as well as in and out of Fovant at the junction, will undoubtedly increase the risk to the general public on foot, if the level of foot traffic was to increase as well as the road traffic on what is already a difficult road to cross, then surely it is only a matter of time before someone is going to be run over. Perhaps traffic lights and pedestrian crossings may be considered in order to protect the lives of the ageing local population.

Local Economy

Fovant appears to have its own vibrant yet fragile micro-economy and it is incredibly convenient to be able to offer overnight accomodation that includes parking and where food is served, when conducting business meetings without having to drive off again. My Company requires this facility on average 4-5 times per week and often for colleagues commuting to and from London. In the current climate it seems incredible that the vilage retains a Post Office, which is so pleasing and useful for our visitors. It also has a garage where they can get any urgent repairs done as well as fuel for the next day and a shop where, most items can be purchased at the last minute even in the evening.

This as well as the location contributes towards Fovant and the Pembroke Arms being our location of choice for guests when doing business. It is apparent that should another Public House open in the village, then the days of the Pembroke Arms are probably drawing to a close. It would be a shame for The Pembroke Arms to close as the area has already lost The Poplars, The Lancers, The Royal Oak and even The Cross Keys failed to stay open during much healthier economic times.

Unless the other Public House was to provide the same facilities, then my trade and including that of the hundreds of overnight bookings I supply, would be forced to select another location. In turn this would obviously hurt the other businesses that we and our colleagues find so useful and that may rely on the extra trade we provide.

Being in business, I understand and appreciate that competition is both necessary and indeed healthy. My concern here is that the market place for two competing businesses is not large enough to support them both and as a result, facilities that are currently available may not be in the future. This will then have a negative impact on my business which generates employment in the area, which in turn distributes wealth locally.

Environmental Impact

In the event that The Pembroke Arms was to close and a new Public House was to open, without overnight accommodation and catering facilities, then the need to drive further would still exist. The options appear to be to stay in a B&B and drive off for an evening meal, where confidential meetings can be conducted and then back again or, to stay at an alternative location further away from the work commitment and hence drive the extra mileage twice a day.

It appears that the nearest location that would provide overnight accommodation, parking and the facilities we would require is roughly 5 miles away. This would add 10 miles per day to the required journey per vehicle which when multiplied by the number of annual guests, will certainly add up to a not insignificant carbon footprint.

I am encouraged to see that the Council feels that their own Wiltshire 2026 - Planning for Wiltshire's future is considered as "perhaps the most important document within the Local Development Framework". Therefore I trust that Environmental Impact and knock-on effects of any decision will be considered during your deliberation process.

It is indeed important to meet the needs of a growing population over the coming 20 year period and Fovant can only benefit from more people coming to stay in their unique and beautiful village.

Summary

May I thank you for taking the time to read this letter and I have total faith that the Council will pay due to consideration the Social, Economic and Environmental issues that have been raised.

Yours sincerely,

Mr N M Little

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Page 1 of 1

Hayley Clark

From: Helen Fletcher
Sent: 12 August 2009 15:55
To: developmentmanagementsouth@wiltshire.gov.uk
Cc: Green, Jose
Subject: FAO :- Judith Howles

Planning Department
Rec 13 AUG 2009
Act
Copy
Action

J. Howles AB

Re :-

Planning Application S/2009/0307 Cross Keys Fovant

Dear Mrs Howles,

I am writing to you regarding the above named Planning Application, as I wish to express my concerns over the lack of consistency and treatment of this application.

I personally sent in an objection and independent traffic report back in April and it was only been posted online on 7th AUGUST, after my numerous phone calls and finally contact with my local Councillor. I was initially informed that my application was inadmissible due to the report being biased. I took advice on this and was told that in no way was the traffic report biased.

I felt that I had to commission this report as Wiltshire Highways had told me that they had not looked at the application concerned due to the fact that the application is identical to the previous application submitted. It isn't, it is a brand new application.

I also know of other objections that have not been posted onto the Wiltshire website, I would like to know the reason behind this.

It is clear to all that have looked at this application, excluding the planning office it seems, that this application is a means to regularise an existing breach of planning.

The middle section of the cross keys has been partitioned off into a separate dwelling, which has now been let out. I cannot find any application to erect the current wall separation that is in place, surely there should be an application to erect this divide. This divide is clear on the current application as a new addition to be erected, even though it is already in place!! Therefore this is a blatant example of flouting the planning regulations especially on a listed building such as the Cross Keys.

The previous application s/2007/0633 was withdrawn as I understand due to the fact that the Applicant refused to sign a Part 106 agreement, surely a 106 should be put in place again, so will this application be withdrawn again?

I would like a response to this letter as I would like to know why the application concerned seems to be treated very differently to other applications. If this application is not looked at as a NEW application I feel that I may have to take further steps.

Yours Sincerely

Michael Barrett

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13/08/2009

Cranborne Chase & West Wiltshire Downs Area of Outstanding Natural Beauty

AONB Office, Castle Street, Cranborne, Dorset, BH21 5PZ

Tel: 01725 517417 Fax: 01725 517916

Email: info@cranbornechase.org.uk Website: www.cwwdaonb.org.uk



Andrew Bidwell
Development Services
Wiltshire Council
61 Wyndham Road
Salisbury
SP1 3AH

Planning Department

Rec. 03 DEC 2009

Approved by

Copy to

Action

30th November 2009

Dear Andrew

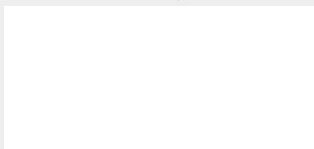
**PA S/2009/307 The Cross Keys, Fovant, SP3 5JH
Erection of single storey rear extension and change of use from dwelling to public house and dwelling house**

Thank you for giving the AONB team the opportunity to comment on this application.

The only comment the AONB Team has to make is to please refer back to our previous observations in relation to the Cross Keys, letters of 20 November 2006 for PA S/2006/2306 and 3 April 2007 for PA S/2007/633, and 19th May 2008 for S/2008/839.

To clarify these comments stated 'The AONB team are keen, in accordance with the Management Plan, to facilitate proposals that sustain a living and working countryside without prejudicing the landscape character or the reasons for designating the AONB. This site is at a point where two landscape character areas come together; Donhead – Fovant Hills and Fovant Greensand Terrace. Matching materials to the locality should, nevertheless, be fairly straight forward'.

Yours sincerely



Richard Burden
Landscape and Planning Advisor

Evolve Business 100% recycled

Working with you to keep this living landscape special



Deadline	10/12/09		
Application Number:	S/2009/1539		
Site Address:	78 ST. MARKS AVENUE SALISBURY SP1 3DW		
Proposal:	RETENTION OF EXISTING HOUSE AND ERECTION OF 4 ADDITIONAL HOUSES TOGETHER WITH A NEW PRIVATE DRIVE AND ALTERATIONS TO ACCESS		
Applicant/ Agent:	MR ROBERT DAVIS		
Parish:	SALISBURY CITY COUNCIL		
Grid Reference:	414998.8 131179.7		
Type of Application:	FULL		
Conservation Area:		LB Grade:	
Case Officer:	Mrs J Wallace	Contact Number:	01722 434687

Reason for the application being considered by Committee.

Councillor Mary Douglas has requested that this item be determined by Committee due to:

- Scale of development

1. Purpose of Report

To consider the above application and to recommend that planning permission be GRANTED subject to conditions and the applicant entering into an Agreement in respect of the provision of public open space (policy R2).

2. Main Issues

The main issues to consider are :

1. Policy context
2. Design and impact on street scene/Character of the area.
3. Impact on amenities
4. Impact on highway safety and existing parking problems
5. Impact on trees on the site
6. Protected species
7. Public Open Space, Policy R2

3. Site and surroundings

The dwelling known as no.78 Marks Avenue is sited immediately adjacent to the northern boundary of the site and its vehicular access is sited immediately adjacent to the southern boundary of the site. St Marks Avenue is subject to a 30mph speed limit, is a bus route and has limited waiting (2hrs) on-street parking in the vicinity of the site.

The site is well treed and is currently occupied by garaging, outbuildings, a swimming pool,

ornamental and vegetable gardens and a small orchard. The site is approximately a metre below St Marks Avenue and slopes steeply away from the road towards the cemetery which forms the eastern boundary of the site. Whilst the site slopes slightly down from north to south, the fall across the depth of the site from west to east is approximately 13 metres.

To the south of the site are large detached houses in large grounds. On the opposite side of St Marks Avenue, on rising ground above the site, the dwellings are also comparatively large and detached with their principle elevations facing the street. On the lower side of the site, to the south of the cemetery is a four storey block of flats in a backland position; whilst to the immediate north of the site is part of a modern estate of small semi-detached houses on small plots.

4. Planning History

81/0601	ERECTION OF A SINGLE DWELLING AND GARAGES AND CONSTRUCTION OF NEW VEHICULAR ACCESS AT PART OF GARDEN	AC	03/06/81
88/0207	INCREASE HEIGHT OF SECTION OF REAR BOUNDARY WALL.	AC	09/03/88
90/0391	PROPOSED EXTENSION , DOUBLE GARAGE AND SUN ROOM.	AC	09/05/90
00/1897	EXTENSION AND ALTERATIONS	APFP	30/11/00
02/0075	VARIATION OF PERMISSION S/2000/1897 FOR CONSTRUCTION OF DISABLED ACCESS.	APFP	18/02/02
07/2546	BALCONY TO REAR	APFP	14/02/08

5. The Proposal

The proposal is to retain the existing dwelling no.78 St Marks Avenue and in the garden, erect four dwellings. (one five bedroomed house and three 3-bedroomed houses; all with a study). The one five bedroomed house will be sited to face St Marks Avenue and will retain, for its sole use, the existing vehicular access off St Marks Avenue. The three 3-bedroomed dwellings which would be located at the rear of the site will be accessed via a new private drive to the immediate south of no 78 St Marks Avenue and this new drive will also serve the existing dwelling, (no.78). A new turning area will be provided in the centre of the site and parking is to be provided for all the dwellings in two, shared two-storey split level garages.

6. Planning Policy

The following policies are considered relevant to this proposal.

G1 and G2	General aims and criteria for development
G5	Protection of water supplies
H8	Housing Policy Boundary
D2	Design criteria
TR14	Provision of cycle parking

R2 Provision of public open space

Also relevant are:-

SDC Supplementary Planning Guidance

Achieving Sustainable Development

PPS3

Housing

7. Consultations

City Council

None received

Highways

No objections subject to a condition that the first 5 metres of the new drive has a consolidated surface and that the gradient of this section of the drive does not exceed 1 in 15.

As the new access will affect a residents parking scheme in St Marks Avenue, the relevant traffic regulation order will require to be revoked and remade at the applicants expense

Environmental Health

No objections subject to conditions regarding control of noise and pollution during construction works and control of hours of work.

Wessex Water

Located in a sewered area with foul and surface water sewers. Point of connection can be agreed at the detailed stage. There are also water mains within the vicinity and a point of connection can be agreed at the detailed stage.

Wiltshire Fire and Rescue Services

Comments relating to need for satisfactory access for fire engines, adequate water supplies and appropriate fire safety measures as well as the encouragement for the provision of domestic sprinklers.

Design Forum

The forum felt that the proposal would result in too many buildings and too much hard surfacing on the site, and that this would not be in keeping with the character of the area (large detached dwellings with generous gardens). Although there are smaller houses at the lower level to the north east, it was considered that the site is read more in context with St Mark's Avenue.

It was felt that the gardens, particularly to no.78 and the new house on St Mark's Avenue would be too small for the size of the houses, and that the access routes, turning and garaging would dominate the site. Furthermore, the fundamental design and orientation of no.78 (with its south-facing conservatory and views) would be compromised by the driveway and new dwelling in such close proximity.

The forum suggested that it could support the principle of one new dwelling alongside no.78 on St Mark's Avenue, or three dwellings at the bottom of the garden of no.78, but not both.

It also considered that, for practical reasons, each dwelling should have a garage within its own curtilage.

8. Publicity

The application was advertised by site notice/neighbour notification with an expiry date of 19 November 2009

10 letters of objection have been received.

Summary of key points raised

Concerns regarding highway safety

St Marks Avenue is being used as a short cut and despite speed restrictions vehicles travel at excessive speed.

Vehicles exiting the site will have a restricted view because of parked cars.

Proximity to 4 schools gives rise to safety concerns re the new access

Increased traffic. Minimum of 9 extra cars

Shared drives are unsatisfactory – lead to friction between neighbours

New access will remove most of on-street parking in this locality

Will restrict amount of 2hour parking available.

Sloping drive (1 in 8) will cause problems in severe weather.

Sloping access will be difficult for emergency vehicles.

Where will the wheelie bins go?

Concerns regarding character of the area

Out of keeping with the area

Four extra houses will increase noise in a very quiet area

Detrimental impact on St Marks Avenue

Increase in density out of keeping with locality

Overdevelopment of the site

Accept room for one extra house, adjacent to no.78.

Three houses at the bottom of the slope out of keeping with character of the area

Amenity issues

Loss of daylight and privacy, overlooking of lower properties

Disturbance to neighbours due to lights from vehicles coming up the slope

Linkway was designed not to overlook no.78 St Marks Avenue but the three dwellings to rear of the site will result in loss of daylight to house on Linkway. Amelioration would be if apex of new house was no more than 1metre above boundary wall.

Window in garage in 76A will overlook bathroom, could it be obscure glazed or omitted?

Boundary hedge should be replaced with a wall

Floor levels and ridge heights should be adhered to.

No provision for surface water.

Will sewage be pumped up to St Marks Road or go through the cemetery

Inconvenience to local residents whilst houses are being built due to builders vehicles etc

9. Planning Considerations

9.1 Policy context

The scheme would create four new dwellings in the garden of no.78. Whilst this raises the density of development in the locality, it would still be low compared to the development to the immediate east. The site is within the Salisbury Housing Policy Boundary where small scale redevelopment is in principle acceptable, providing the proposal is in accordance with the other criteria for the Local Plan and is keeping with the character of the locality. National guidance as expressed in PPS3 also seeks to encourage the efficient use of residential land within sustainable settlements and hence encourages a density of development of at least 30 dwellings per hectare. This site is close to the town centre, schools and other facilities and has good access to public transport. It is not subject to any other designation which might restrict development. However, whilst, there is no in principle objection to backland or tandem development. In the Adopted Local Plan, the Local Plan does suggest that such development is only acceptable where; there are no amenity objections, such as overlooking, noise and disturbance and where the vehicular access is suitable.

9.2 Design and impact on street scene/character of the area.

Currently this part of St Marks Avenue has a traditional residential character. The area is well treed and the road generously sized. As no.78 has a frontage approximately twice that of its neighbours, in terms of character of the area, the sub-division of the site's frontage will result in two dwellings on plots, which will appear from the street, to be very similar in size to others in the locality. Whilst the depth of the plot of no.78 would be less than its immediate neighbours to the north, that of the proposed dwelling on St Marks Avenue (no.74) would be similar in size and both plots would be larger than that of no.68 St Marks Avenue. The width of proposed new central access between the two dwellings is proposed to be 4.8m. Whilst this is wider than the access drives in the locality, it is not unusually wide and thus it is considered that even with the creation of a new access, the addition of a new dwelling on the frontage of the site; would not have a detrimental effect on the visual appearance of this part of St Marks Avenue.

The proposed dwelling on St Marks Avenue is a substantial five bed roomed dwelling with a steeply sloping roof and a large front gable. It is proposed that the building be of brick under a clay tiled roof and the fenestration and detailing are traditional. There are curved brickwork details over the ground floor windows and doors and the front gable is to be tile-hung. The design of the proposed dwelling on St Marks Avenue (no. 74) is considered appropriate to the area.

In terms of the remainder of the site, which due to its sloping nature is virtually invisible from St Marks Avenue; the character of the surrounding area is slightly different and relates much more to the Bishopstone development and the area around the London Road. To the east of the site there is much higher density of development, mainly semi-detached pairs of dwellings on small plots to the north and 4-storey block of flats to the south. Also, it has to be borne in mind that there is tandem development to the immediate south of the site, off St Marks Avenue. In terms of the much higher density of development which predominates to the rear of the site, the addition of three 3-bedroomed dwellings are considered to be in keeping with the general character of the area and are judged to be acceptable.

9.3 Impact on amenities

9.3.1 Impact on existing surrounding occupiers

The proposed dwelling on St Marks Avenue (no74) has been designed so that there is only one first floor window facing towards the existing no.78 and that is an en-suite window which can be conditioned to be both obscure glazed and top-opening. Design Forum noted that the design and orientation of no.78 (with its south-facing conservatory and views) would be compromised by the driveway and new dwelling in such close proximity. However, in view of the size of the dwelling and its elevated position, and whilst the occupiers will be aware of the new dwelling, in this case, it is not judged that the amenities of the occupiers would be so compromised as to be a sufficient reason for refusal .

As regards no 68, there are no proposed windows on the southern elevation. Whilst the rear windows will overlook gardens and towards no72, it is considered that in view of the steep slope of the land and the positioning of no. 72, that whilst the occupiers will be aware of the new dwelling, in a residential area there is always some inter-visibility between dwellings. However,, as in this case, the angle of view will be oblique, this change is this change is not judged to be so detrimental as to be a sufficient reason for refusal

In relation to the dwellings on the opposite side of St Mark's Avenue, these dwellings are sited higher than both no78 and the proposed no.74 and whilst the erection of a new house on St Marks Avenue will change the current situation, it is considered that in an existing residentially developed areas, the introduction of a new dwelling in this location, will not detrimentally effect the amenities of the current occupiers.

Therefore, as a consequence of the above, and on balance, it is considered that the privacy enjoyed by adjacent dwellings would not be so significantly affected as to warrant refusal of the application on these grounds.

9.3.2 Impact on future occupiers of proposed dwellings

The scheme uses the slope of the land and has been designed so that there is very limited possibility of inter-visibility and overlooking between the dwellings to the front and rear of the site. A unique feature of the scheme is the creation of two 2-storey garages which will be sited adjacent to a turning area to serve all five properties and which act as an additional interruption to the views across the site.

The Council's Environmental Health Officer has raised no objections to the proposal, subject to conditions which would limit the hours of work in the interests of the amenities of the neighbours. Also it would appear from the submitted plans that the four dwellings will have large rooms and substantial amenity/garden space and whilst in relation to 76A and 76B this space would be overshadowed by the large sycamore on the adjacent cemetery, it is considered that this is not untypical of other residential development elsewhere in the city.

Whilst the Design Forum considered that, for practical reasons, each dwelling should have a garage within its own curtilage rather than share the split-level garaging, shared garaging is a common answer to the parking of vehicles and in this case the split-level garaging is a design solution to the particular features of this site.

Consequently, it is considered that the proposal would result in acceptable living accommodation for the future occupiers of the dwellings on the site and the existing no.78.

9.4 Impact on highway safety and existing parking problems

Much concern has been expressed regarding the speed of traffic in this area, the difficulties that vehicles would have in accessing the site and the impact of the loss of the on-street parking area would have on highway safety.. In overall terms, clearly the introduction of a further four dwellings will increase the number of vehicles using the site, but within the city, it is not considered that this would be so significant in relation to the number of vehicles using the road as to warrant refusal on these grounds.

Objections have been received from neighbours regarding the problems likely to arise because the access drive to the three dwellings at the rear will be steep, however, the Highway Authority, whilst insisting on a gradient of 1 in 15 for the first 5metres of the drive, has not supported refusal of this application on these grounds.

This scheme proposes two split level garages and a central turning area and whilst this is an unusual arrangement it is in response to the character of the site and the Highway Authority has no objection to as vehicles using the site will be able to enter and leave in a forward gear.

Consequently, it is considered that the erection of an additional four dwellings on this site would be unlikely to have any more impact on highway safety than the current use of the land. Given the Highway Authority's comments, it would also be difficult to support a refusal of the scheme on highway grounds.

9.5 Impact on trees on the site

The site is well treed and there are a number of trees on the frontage of the site which give character to the area. However, whilst the development would result in the removal of approximately twelve of the trees from the site, the majority are small fruit trees and the Arboricultural Impact Appraisal suggests that all are either in a poor condition, or so small as to not warrant retention. Adjacent to the eastern boundary of the site are the trees in the cemetery. A large tree will overhang the garden of the proposed dwelling no.76A but as it will be some 14m from the dwelling, it is not considered that this will so affect the amenities of the occupiers as to result in pressure to have the tree removed. are to be removed from the site

9.6 Protected species

A survey by a competent professional has identified no protected species inhabiting the site.

9.7 Public Open Space Policy R2

A contribution for recreational facilities would be required for the new dwelling pursuant to the above policy.

10. Conclusion

The principle of increasing the density of development within existing residential areas is acceptable.

The construction of four new dwellings on the site, in the manner proposed, would have no adverse impact on the character of the street scene.

The dwelling as proposed would not have such a significant impact on surrounding amenities

as to warrant refusal.

There are no highway objections to the proposed new access to the site.

Recommendation :

Subject to applicants entering into a section 106 agreement relating to the payment of a commuted sum towards the provision of public open space in accordance with policy R2, then:

APPROVE for the following reason

The principle of new residential development is acceptable within the Housing Policy Boundary and as the construction of four new dwellings would have no adverse impact on the character of the street scene and there would be no significant detrimental impact on surrounding amenities on balance the proposal is considered to be acceptable in accordance with the Salisbury District Local Plan.

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) Other than those approved by this permission, there shall be no other windows inserted in the dwellings hereby permitted.

REASON To ensure adequate privacy for the occupants of neighbouring premises.

POLICY G2 General criteria for development

(3) No development shall commence on site until the trees on the site which are to be retained have been enclosed by protective fencing, in accordance with British Standard 5837 (2005): Trees in Relation to Construction and the recommendations of the Arboricultural Impact and Method Statement report prepared by Barrell Tree Consultancy dated 29 September 2009. Before the fence is erected its type and position shall be approved with the Local Planning Authority and after it has been erected, it shall be maintained for the duration of the works and no vehicle, plant, temporary building or materials, including raising and or, lowering of ground levels, shall be allowed within the protected areas(s).

REASON: To enable the Local Planning Authority to ensure the protection of trees on the site in the interests of visual amenity.

POLICY G2 General criteria for development

(4) No development shall commence on site until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include:

- (a) indications of all existing trees and hedgerows on the land;
- (b) details of any to be retained, together with measures for their protection in the course of development;
- (c) all species, planting sizes and planting densities, spread of all trees and hedgerows within or overhanging the site, in relation to the proposed buildings, roads, and other works;
- (d) finished levels and contours;
- (e) means of enclosure;
- (f) hard surfacing materials;
- (g) 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.

POLICY-G2 General criteria for development:

(5) 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.

POLICY G2 General criteria for development: CN17 Trees protected by Tree Preservation Orders

(6) During demolition and construction works, no machinery shall be operated, no process shall be carried out and no deliveries taken at or despatched from the site outside the following time 0800 to 1800 on Mondays to Saturdays and there shall be no activities/working on Sundays, Bank and Public Holidays.

REASON To avoid the risk of disturbance to neighbouring dwellings/the amenities of the locality during unsocial hours.

POLICY G2 General criteria for development

(7) No development approved by this permission shall commence until a scheme of water efficiency measures has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the agreed details.

REASON In the interests of sustainable development. Salisbury District Council's Supplementary Planning Guidance on "Achieving Sustainable Development" promotes the prudent use of natural resources. It is necessary to minimise the local demand for water to protect future supplies.

POLICY G5 Protection of water supplies

(8). Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking or re-enacting or amending those Orders with or without modification), no development within Part 1, Classes A-C and Class E (extensions/enlargements/outbuildings) shall take place on the dwellinghouse hereby permitted or within its curtilage.

REASON: 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.

POLICY G2 and D2 Criteria for development

(9)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

POLICY G2 Criteria for development

(10) The gradient of the access way shall not at any point be steeper than 1 in 15 for a distance of 4 5 metres from its junction with the public highway

REASON In the interests of highway safety

POLICY G2 Criteria for development

(11)The proposed new access is directly affected by a residents parking scheme in St Marks Avenue The construction of the new access shall not take place until the relevant traffic regulation order has been revoked and remade to omit the new access width and the remade order implemented and completed

REASON In order to provide a safe access to the development

POLICY G2 Criteria for development

12 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking or re-enacting or amending that Order with or without modification), the garages hereby permitted shall not be converted to habitable accommodation.

REASON: To safeguard the amenities and character of the area and in the interest of highway safety.

POLICY G2 Criteria for development

INFORMATIVE 1 DOCUMENT/PLANS SUBMITTED WITH THE APPLICATION

This decision relates to documents/plans submitted with the application, listed below. No variation from the approved documents should be made without the prior approval of this Council. Amendments may require the submission of a further application. Failure to comply with this advice may lead to enforcement action which may require alterations and/or demolition of any unauthorised buildings or structures and may also lead to prosecution.

Drawing reference 2397/7 received on 15 October 2009.

Drawing reference 2397/8 received on 15 October 2009.

Drawing reference 2397/9 received on 15 October 2009.

Drawing reference 2397/10 received on 15 October 2009.

INFORMATIVE 2 HIGHWAYS

The applicant should be advised to contact Paul Shaddock of the Salisbury Transportation Team on 01722 434671, who will design and co ordinate the traffic regulation order work, the cost of which will be borne by the applicant. The cost includes advertising the order changes, staff time, signs and road markings.

INFORMATIVE 3 ENVIRONMENTAL HEALTH

All plant and equipment should be suitably chosen, sited, operated and serviced so as to minimise noise, vibration, fumes and dust. Best practical means should be employed to minimise potential nuisance to neighbouring properties. All plant should be turned off when not in use.

Pneumatic tools should be fitted with an integral silencer and/or purpose made muffler, which is maintained in good repair.

In periods of dry weather, dust control measures should be employed including wheel washing and damping down. Any stockpiles of materials which are likely to give rise to windblown dust, shall be sheeted, wetted or so located as to minimise any potential nuisance.

Where the site is adjacent to residential or business premises, bonfires should be avoided, and all waste materials should be removed from site and suitably disposed of. At no time should any material that is likely to produce dark/black smoke be burnt (e.g. Plastics, rubber, treated wood, bitumen etc)

Radio noise should not be audible at the boundary of the nearest neighbouring property.

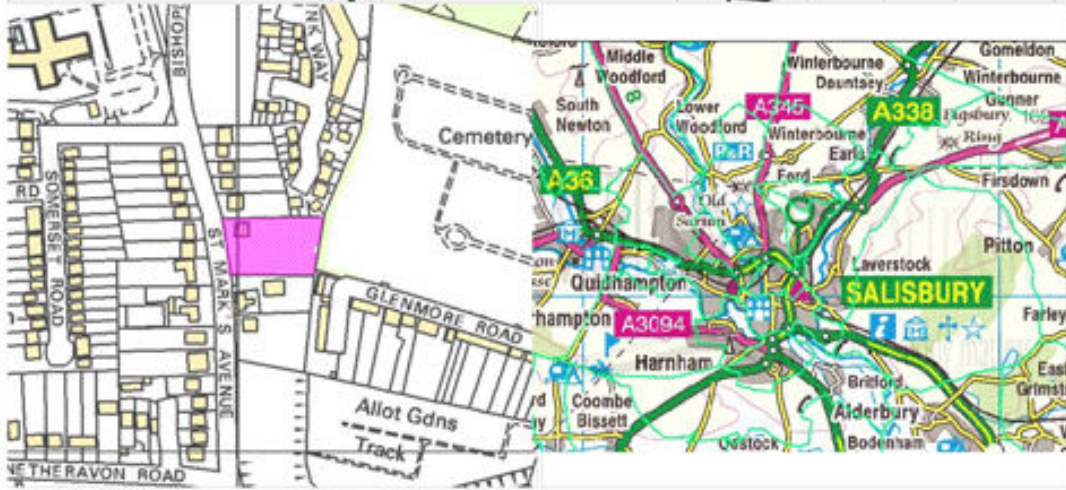
Any temporary oil storage tanks should be safely and securely sited so as to prevent pollution in the events of spills or leakage. It is also strongly recommended that any oil storage tank should be surrounded by an impervious oil/watertight bund having a capacity of at least 110% of the tank.

Neighbouring residential premises should be advised of any unavoidable late night or early morning working which may cause disturbance. Any such works should be notified to the Environmental Services Department on (01722) 434333 prior to commencement.)

Appendices:	NONE.
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Background Documents Used in the Preparation of this Report:	Drawing reference 2397/7 received on 15 October 2009. Drawing reference 2397/8 received on 15 October 2009. Drawing reference 2397/9 received on 15 October 2009. Drawing reference 2397/10 received on 15 October 2009.
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S/2009/1539



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78 ST. MARKS AVENUE SALISBURY

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Deadline	02/11/09		
Application Number:	S/2009/1343		
Site Address:	LOWENVA SHRIPPLE LANE WINTERSLOW SALISBURY SP5 1PW		
Proposal:	O/L SEVER LAND DEMOLISH EXISTING DOUBLE GARAGE/WORKSHOP; ERECT A DETACHED 2 STOREY 4 BEDROOM HOUSE AND 2 DETACHED DOUBLE GARAGES		
Applicant/ Agent:	KEN PARKE PLANNING CONSULTANTS		
Parish:	WINTERSLOW		
Grid Reference:	424667 132712		
Type of Application:	OL		
Conservation Area:		LB Grade:	
Case Officer:	Mr B Hatt	Contact Number:	01722 434541

Reason For The Application Being Considered By Committee

To consider the above application which was deferred at the last committee for a site visit following a call in by Councillor Devine.

1. Purpose of Report

To consider the above application and to recommend that planning permission be REFUSED.

2. Main Issues

The main issues to consider are :

1. The principle of the proposed development
2. Highway issues
3. Siting and scale
4. Impact on neighbour amenity

3. Site Description

Lowenva is a detached 2 storey house with a single storey double garage and workshop on a large site contained by a number of mature coniferous and deciduous trees. The site is accessed from a single width unadopted lane known as Shrippl Lane which is a public highway.

4. Planning History

78/0694 new garage and workshop A/C
82/1135 extension above residential workshop A/C

5. The Proposal

The application is for outline planning consent for the erection of 1x four bed dwellinghouse and the erection of 2 detached double garages following the severance of land and demolition of an existing double garage/workshop.

6. Planning Policy

- Salisbury adopted (saved) local plan policy G2 (General Criteria for Development)
- Salisbury adopted (saved) local plan policy D2 (Design)
- Salisbury adopted (saved) local plan policy H16 (Housing Policy Boundary)
- PPS1 & PPS 3

7. Consultations

WCC Highways

Object on grounds of insufficient visibility splay and sight lines for the proposed development

Environment Agency

No objection

Winterslow parish council

Support the application, with comments

Arboricultural Officer

No objections in principle subject to a method statement

Wessex Water

No objections subject to in formatives

8. Publicity

The application was advertised by site notice and neighbour notification letters
Expiry date 15/10/09

Five letters of objection have been received regarding:

- highway safety
- surface water run off
- design and scale of proposal
- impact on wildlife

Two letters raising no objection

9. Planning Considerations

9.1 The principle of the proposed development.

The site is located within the Housing Policy Boundary for Winterslow. In such areas development proposals such as this are considered to be acceptable in principle and the main planning considerations therefore centre on the details of the development proposal on a case by case basis.

9.2 Highway Issues

The proposed development takes its access off the Shriple, a roughly surfaced unlit track (Byway 38) which serves a number of existing dwellings. Wiltshire Highways comment that “at its southern junction with The Common, from a point measured 2.4m back into the centre line of Byway 38, visibility from and of a vehicle leaving Byway 38 falls significantly below the recommended standard in an easterly direction. This result is in an inadequate and unsuitable access to serve the proposed development”.

Following the initial comments from Highways further representations have been made by the agent regarding highway safety (which are attached as an appendix) that seek to address the Highways concerns. However. Following these additional comments from the agent a site visit was conducted by Highways and a second response was received which consider that the points raised do not overcome the issue of highways safety and such the objections remain.

9.3 Siting and scale

The application is outline only and provides an indication of the siting and footprint of the proposed dwelling. The applicant has described the dwelling as having four bedrooms and being of two storey construction. The proposed dwelling is shown located approximately in line with the existing buildings at Lowenva. In this respect the indicated siting and scale of the proposed buildings is considered accordant with the general building line, plot widths, scale and height of those in the immediate vicinity.

9.4 Impact on neighbour amenity

Whilst the specific details of the design, orientation and layout of the proposed dwelling is not provided for consideration in the current outline application, and would be dealt with in detail in a subsequent reserved matters application, on the basis of the detail provided in respect of the siting of the proposed dwelling it is considered that the proposed development would not unduly disturb, interfere, conflict with or overlook adjoining dwellings or uses to the detriment of existing occupiers.

10. Conclusion

The proposed development would not unduly disturb, interfere, conflict with or overlook adjoining dwellings or uses to the detriment of existing occupiers and is considered to be of an acceptable siting and scale. However the proposed development takes its access off the roughly surfaced unlit track (Byway 38) which has a scheduled width of 3.04m only. At its

southern junction with The Common, from a point measured 2.4m back into the centre line of Byway 38, visibility from and of a vehicle leaving Byway 38 falls significantly below the recommended standard in an easterly direction. This result is in an inadequate and unsuitable access to serve the proposed development as such is contrary to the aims and objectives of policy G2 of the adopted Salisbury District Local Plan.

Recommendation

It is recommended that this application be REFUSED for the following reasons:

The proposed development takes its access off the roughly surfaced unlit track (Byway 38) which has a scheduled width of 3.04m only. At its southern junction with The Common, from a point measured 2.4m back into the centre line of Byway 38, visibility from and of a vehicle leaving Byway 38 falls significantly below the recommended standard in an easterly direction. This result is in an inadequate and unsuitable access to serve the proposed development as such is contrary to the aims and objectives of policy G2 of the adopted Salisbury District Local Plan.

Appendices:

Email correspondence regarding highway objection

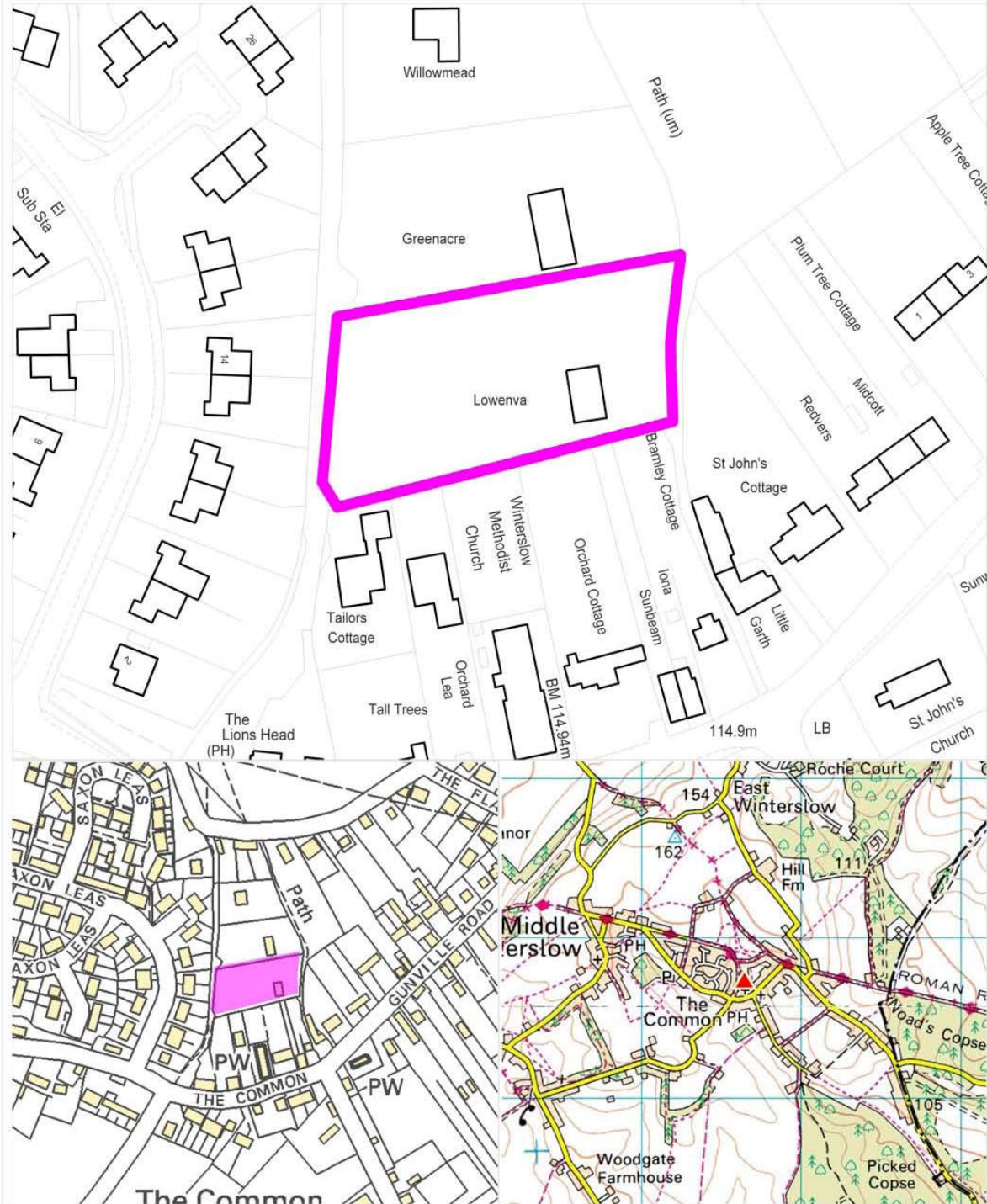
Background Documents Used in the Preparation of this Report:

08/1490/100

O/L SEVER LAND DEMOLISH EXISTING DOUBLE GARAGE/WORKSHOP; ERECT A DETACHED 2 STOREY 4 BEDROOM HOUSE AND 2 DETACHED DOUBLE

S/2009/1343

Site Visit:



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LOWENVA , SP5 1PW

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APPENDIX 1

From: Hannis, Rob

Sent: 27 November 2009 18:10

To: Hatt, Ben

Cc: harding, john

Subject: FW: Planning application S/2009/1343 - Proposed development At Lowenva, Shrippl lane, Winterslow.

Ben, I spoke to Phil Caseley yesterday after visiting the site with John - our view is that we have a strong position on road safety grounds and I have expressed this to Phil. We measured the sight line because he felt we had not provided sufficient evidence in our observations - having looked at it with John, I am convinced we have made a good and reasonable judgement and I feel his tone is threathening and most unhelpful. But his client can of course appeal. Could LPA put a cost claim in as well because we have given consistent advice on previous applications and pre-app with him?

Rob

From: Phil Caseley

Sent: 27 November 2009 12:37

To: Hatt, Ben

Cc: harding, john; Hannis, Rob; 'Robin Henderson'

Subject: RE: Planning application S/2009/1343 - Proposed development At Lowenva, Shrippl lane, Winterslow.

Ben, notwithstanding John's final comments, there has been no assessment of speed for the road so I consider the comments invalid. To advise that visibility is substandard without that assessment will no doubt put your authority at a risk of an award of costs when it comes to appeal. They have also confirmed that there has been no investigation into the accident statistics for the area, another issue that I would have expected to be undertaken in their decision making process.

The Highways team have advised me of a measurement of about 28m to the nearside edge when unless there is a significant likelihood of overtaking the measurement can be taken to the centre of the road as condoned by Manual for Streets (MfS). A recent application I have dealt with in Wylve accepted relaxations from the nearside edge so the highway authority are not dealing with application in a like manner, the circular for costs also advises this may be open for an award.

Your highways team have acknowledged that there is a very light flow of traffic on the main road, so much so that a speed survey is very unlikely to gain the required amount of vehicles, this in itself is a matter where MfS also accepts that relaxations can be made.

Lastly, the fact that the Highway Authority have accepted applications on the Shrippl which were ancillary to the main use accepts the principle of increase in traffic, the negligible increase associated with this application being 5 per day because of its remote location is likely to be able to be accommodated with significant implication for road safety.

It strikes me that there has been no formal assessment of the scheme in relation to likely speeds, where visibility can be measured to, or that there has been planning history that accepts additional vehicular traffic on the Shrippl using the access to the Common. All of these issues lead me to believe that at appeal there is a real risk of an award of costs and I ask you to bear this in mind in coming to your final decision.

Phil Caseley

Address

JPC Highway Consultants

98 St Georges Drive

Bournemouth

BH11 8NY

Registered in England and Wales No 054452328

Registered Office: 9 Queens Road, Bournemouth, Dorset. BH2 6BA

From: harding, john

Sent: 27 November 2009 11:55

To: Hatt, Ben

Cc:

Subject: Planning application S/2009/1343 - Proposed development At Lowenva, Shrippl lane, Winterslow.
Ben,

Further comments for clarification as discussed.

The proposed development takes its access off the roughly surfaced unlit track (Byway 38) which has a scheduled width of 3.04 metres only. At its southern junction with The Common, from a point measured 2.4 m back into the centre line of By 38, visibility from and of a vehicle leaving By 38 falls significantly below the recommended standard in a easterly direction. I therefore adhere to my recommendation of refusal dated 2nd October 2009.

Regards,

John Harding

Development Control Engineer

Department of Transport Environment & Leisure

Wiltshire Council

County Hall

Trowbridge

BA14 8JN

Deadline	19/08/09		
Application Number:	S/2009/0900		
Site Address:	HAZELDENE GILES LANE LANDFORD SALISBURY SP5 2BG		
Proposal:	ERECTION OF 2 X HOLIDAY CABINS		
Applicant/ Agent:	MR MICHAEL HAYWARD NEW FOREST LAVENDER		
Parish:	LANDFORD		
Grid Reference:	427257.3 119890.3		
Type of Application:	FULL		
Conservation Area:		LB Grade:	
Case Officer:	Mrs J Wallace	Contact Number:	01722 434687

Reason for the application being considered by Committee

Councillor Leo Randall has requested that this item be determined by Committee due to:

- Environmental/highway impact

1. Purpose of Report

To consider the above application and to recommend that planning permission be GRANTED subject to conditions.

2. Main Issues

The main issues to consider are :

- Compliance with policy
- Impact on the Special Landscape Area/NFHA/New Forest National Park
- Highways

3. Site Description

The agricultural holding is approximately 7ha in area and is set back from the main road, behind trees and hedges and whilst the farm buildings which are largely set together along with the existing dwelling may be intermittently visible from the A36, the views are at some distance.

The proposed two chalets are to be located alongside the existing agricultural buildings, close to the existing dwelling and on the edge of the site; alongside which there is a public footpath.

4. Planning History

78/1312 O/A agricultural dwelling for market gardening. R Appeal Withdrawn

79/595 O/A erection of dwelling and garage in connection with

	horticulture.	R
80/354	O/L erection of an agricultural dwelling.	Withdrawn
80/950	Erection of glass houses and O/L for one agricultural dwelling.	AC
80/1490	Approval of matters reserved. Agricultural dwelling house.	A
00/434	Erection of horticultural work/store building	R
01/1564	Horticultural workshop/storage building	A
02/2533	PN – Pole barn for use as a tractor store and bulk compost.	NOBJ
PN/06/0012	Agricultural workshop/store	Prior approval not required;
PN/07/0016	Polytunnel	Prior approval not required
PN/08/0010	Greenhouse, shelter and polytunnel in connection with lavender production	NOBJ

5. The Proposal.

It is proposed to erect two timber cabins for holiday letting in support of the existing agricultural enterprise. The holding has in recent years been largely converted from market gardening to the growing of lavender and the two chalets are intended to be closely linked and support this business.

6. Planning Policy

G1 and G2	Aims, objectives and criteria for development
C2 and C6	Development in the countryside
C20	Development to meet the needs of agriculture etc
C21	Farm diversification
H23	Applicability of Housing Policy Boundaries
HA16	Holiday accommodation in the New Forest Heritage Area
HA13	Tourist attractions in the New Forest Heritage Area
T7 and T9	Holiday accommodation
SDC	Salisbury and Stonehenge Tourism Strategy
PPS7	Sustainable development in rural areas
PPG13	Transport

7. Consultations

New Forest National Park

Not yet received

Environment Agency

Proposal is to use non-mains drainage. This is only acceptable if connection to the main sewer is not feasible. If non-mains drainage is the only option, a Consent to Discharge will be required.

Parish Council:

Object: The Council is concerned by several aspects of this application.

Not all existing buildings are shown on the plan:

The cafe building was granted planning permission because it was required as a “drying room” No application to widen the access from Giles Lane can be remembered – the general consensus is that it used to be a single gate.

The “Visitor” side of the enterprise already attracts a very large number of visitors (and hence cars) down Giles Lane. As far as the Council is aware no planning consent has been granted for this “Visitor centre”.

The cafe was originally assumed to be an adjunct to the lavender growing/processing business and as such it was assumed by the Parish Council that it did not need planning consent. The current application appears to be a diversification of what seems to be a rapidly developing retail/visitor centre, rather than of the lavender farm itself. The proposal is not for a conversion of redundant farm buildings but for the new development of two residential units (who occupies them seems somewhat academic, as it might in any case be difficult to monitor, but the suggestion is that it could be for eleven months in the year) in an area where additional permanent residential units are not permitted. The chalets and associated car-parking would be clearly visible from the footpath, certainly until any screening had grown.

It seems to the Parish Council that this would be an opportune moment to consider the planning implications of all the current activities which have evolved on this site as well as the proposed chalets. The Supporting Statement certainly suggests that the visitor element could be significant in the long term, even though the various elements may develop in stages. The Parish Council considers it inappropriate to grant consent for the chalets when the over-arching scheme itself does not have planning consent.

Highways

Refuse as the proposal is remote from services and will encourage motorised journeys

Wiltshire Fire and Rescue Services

Comments relating to need for satisfactory access for fire engines and adequate water supplies.

Environmental Health

No objection but consider that the Applicant’s proposal to enter into a S106 Agreement should

be accepted and occupation should be limited to holiday use only

Southern Water

No response received

Wessex Water

Not in the area served by Wessex Water

Tourism Officer

Support. The Tourism strategy has identified a shortage of self-catering bed spaces. Would support offer of Applicant to enter into a S106 Agreement to limit occupation to holiday use. The encouragement for visitors to walk, cycle, fish and buy locally is encouraging, though the estimates of employment are considered optimistic

8. Publicity

The application was advertised by site notice/neighbour notification with an expiry date of 23 July 2009
No letters of support/objection have been received.

9. Planning Considerations

9.1 History

The small holding has gradually evolved from primarily market gardening to primarily the growing of lavender. Since 2000, various buildings in association with the business have been permitted/erected following the Prior Notification procedure. They include a tractor store, workshop and drying area shelter.

9.2 Compliance with policy

The site is located within the New Forest Heritage Area where the development of tourist attractions and the expansion of holiday chalet accommodation is not permitted. The supporting text of the Local Plan explains that the reason for this stance is because of the increasing pressures on the New Forest from visitors.

Government guidelines as expressed in PPS 7 suggests that tourism and leisure activities are vital to many rural economies and helps support the prosperity of country towns and villages. PPS7 recommends supporting sustainable rural tourism and leisure developments that benefit rural businesses and which utilise and enrich, but do not harm the character of the countryside. PPS7 recognises that even in areas that are statutorily designated for their landscape there will be scope for tourist and leisure developments. The Government's long term strategy for farming is to support increasingly diversification into non agricultural activities as this can be vital to the continuing viability of farm businesses.

The Salisbury and Stonehenge Tourism Strategy prepared by the former Salisbury District

Council identified the shortage of self-catering facilities and the need to support the visitor economy in the local area and like PPS7 supports the provision of self catering holiday accommodation in rural areas where this would accord with sustainable development objectives.

The Salisbury District Local Plan also supports the provision of small scale holiday accommodation where it can be demonstrated that there would be no adverse effect on the quality of the landscape and the proposal would comply with the criteria of the Local Plan policies. In principle therefore, as the site does not have direct access from the trunk road, would be well screened from most vantage points (with new screening proposed adjacent to the existing public footpath), would not affect the amenities of neighbours and no conservation interest would be harmed; the proposal would appear to comply with this aspect of the Local Plan.

Other policies in the Local Plan, support the diversification of employment opportunities and traditional farming activities and in this case, the justification for the provision of holiday accommodation is the support that the proposal will give to the farming activities on the holding. The farm was traditionally an intensive horticultural unit, but the unit has diversified to include the production of containerised and field grown lavender, which is then sold as plants or dried and processed into other products. Additionally as an ancillary activity, educational courses are held, whose purpose is to provide an educational agricultural experience for visitors, this supports and helps sustain the core activity on the holding. This proposal to have two holiday units is also to support the diversification of the farming enterprise. Part of the tourist attraction of the accommodation will be the opportunity to stay on a working farm, to take part in farm activities as well as to use the well defined local network of footpaths/bridleways to explore the local countryside. The Salisbury and Stonehenge tourism strategy has identified a need for further self-catering accommodation in rural areas and it is considered that as the proposal would aid the viability of the holding, that it would be in accordance with the aims of government policy which are to support the rural economy.

However, it is considered that because these are the reasons for the provision of this additional residential accommodation in the open countryside, and because there are clear policy objections to the provision of permanent residential accommodation in the countryside outside of a Housing Policy Boundary; that the proposed accommodation should be clearly identified as being for holiday letting purposes only, with visitors length of stay controlled so that the accommodation is clearly a diversification from the farm activities and is supportive of the holding's agricultural activities.

9.3 Impact on the Special Landscape Area/NFHA/New Forest National Park.

The proposed two chalets will visually form part of the existing farm complex and visually they will have no detrimental impact on the surrounding countryside which is designated as a Special Landscape Area within the New Forest Heritage Area. The provision of further gates and hard surfaced areas are considered acceptable within a farm complex and the provision of additional screening particularly adjacent to the public footpath can be conditioned. Whilst the chalets/cabins would be located close to the existing farm dwelling, it is considered that the creation of the two residential units, even in the revised location, which is slightly closer to the other buildings on the site, is not considered to adversely affect the amenities of the residents of the farmhouse. However, in order to control the impact of the buildings on the open countryside and as the residential accommodation is justified solely as a diversification of the farm enterprise for the encouragement of rural tourism; it is proposed that any consent be conditioned so that any additions or extensions to the buildings would require planning

permission.

The area around the holiday lets is to be physically separated from the existing farm buildings, though visually still part of the farm complex; in order to ensure that the holiday accommodation is used for rural tourism in support the viability of the farm enterprise, because part of the tourist attraction will be the opportunity to stay on a working farm. Notwithstanding the comments of the Parish Council regarding unauthorised 'visitor' activities, this proposal has been considered solely in the context of the agricultural use of the land and the support for farm diversification which is expressed in both national and local policies. Therefore relates only to the proposed holiday cabins and recreational store building within the area outlined in red on the drawing accompanying the application and does not relate to any other building on the site outlined in blue

9.4 Highways

The Highway Authority does not support this proposal as in its view the holiday accommodation would be located in an area which was remote from services and its use would encourage motorised journeys and so would be contrary to the aims of PPG13.

By its very nature, the majority of agricultural enterprises will be at a distance from sustainable settlements and any diversification into non agricultural activities will encourage the use of the private car in locations where there is no public transport available. PPS7 moreover, recommends that Local Planning Authorities support sustainable rural tourism which benefit rural businesses. In this case, the scheme is for visitors to stay on a working farm and participate in activities on the farm as well as use the local footpaths and bridleways. Therefore whilst there may be some small increase in traffic when tourists arrive at the start of their holiday and leave at the end, this is not considered to be so great as to warrant being a reason for refusal.

10. Conclusion

The proposed development is in accordance with local tourism guidance and Government guidance as expressed in PPS7. Overall, as it is considered that this proposal will benefit a rural business and in view of its very small scale is unlikely to have any detrimental impact on the countryside and the surrounding environment, and therefore providing it is conditioned so that the accommodation is solely for use of visitors; the proposal is considered acceptable.

Recommendation

APPROVE subject to conditions

Reasons for approval

The proposed development is in accordance with local tourism guidance, the policies in the Local Plan and Government guidance as expressed in PPS7. Overall, as it is considered that this proposal will benefit a rural business and in view of its very small scale is unlikely to have any detrimental impact on the countryside and the surrounding environment, the proposal is considered acceptable.

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 No development shall take place until details of the treatment of the boundaries of the site have been submitted to and approved in writing by the Local Planning Authority. Any tree screening, hedges, walls or fences thus approved shall be planted/erected prior to the occupation of the building[s].

REASON In the interests of the amenity and the environment of the development.

POLICY G2, C2 and C6 general and countryside policies

3 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking or re-enacting or amending that Order with or without modification), there shall be no additions/extensions or external alterations to any building forming part of the development hereby permitted.

REASON: 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 external alterations.

POLICY- C2 and C6 protection of the Special Landscape Area

4 Notwithstanding the Town and Country Planning (Use Classes) Order 1987 and the Use Classes (Amendment) Order 2005 (or any Order revoking and re-enacting those Orders, with or without modification), the accommodation/cabins hereby permitted shall be used for holiday accommodation only and for no other purpose.

REASON: This site is in a position where the Local Planning Authority, having regard to the reasonable standards of residential amenity, access, and planning policies pertaining to the area, would not permit permanent residential accommodation.

POLICY C2 and C6 Countryside policies, H23 Housing policy boundaries, C21 Farm diversification

5 No person shall occupy the holiday accommodation hereby permitted for a continuous period of more than 21 days in any calendar year and it shall not be reoccupied by the same person/s within 28 days following the end of that period.

REASON: This site is in a position where the Local Planning Authority, having regard to the reasonable standards of residential amenity, access, and planning policies pertaining to the area, would not permit permanent residential accommodation.

POLICY:C2 and C6 countryside policies, H23 Housing policy boundaries, C21 Farm diversification

6 The owners/ operators of the site shall maintain an up -to -date register of the names of all owners/occupiers of individual cabins on the site, and of their main home addresses, and shall make this information available at all reasonable times to the Local Planning Authority.

REASON: This site is in a position where the Local Planning Authority, having regard to the reasonable standards of residential amenity, access, and planning policies pertaining to the area, would not permit permanent residential accommodation.

POLICY C2 and C6 countryside policies, H23 Housing policy boundaries, C21 Farm diversification

7 The holiday accommodation/cabins hereby permitted shall not be occupied as a persons' sole or main place or residence.

REASON: This site is in a position where the Local Planning Authority, having regard to the reasonable standards of residential amenity, access, and planning policies pertaining to the area, would not permit permanent residential accommodation.

POLICY C2 and C6 countryside policies, H23 Housing policy boundaries, C21 Farm diversification.

INFORMATIVE 1

DOCUMENT/PLANS SUBMITTED WITH THE APPLICATION

This decision relates to documents/plans submitted with the application, listed below. No variation from the approved documents should be made without the prior approval of this Council. Amendments may require the submission of a further application. Failure to comply with this advice may lead to enforcement action which may require alterations and/or demolition of any unauthorised buildings or structures and may also lead to prosecution.

Block plan showing site for cabins and store received on 24 June 2009

Location plan and elevations of two cabins and store received on 24 June 2009.

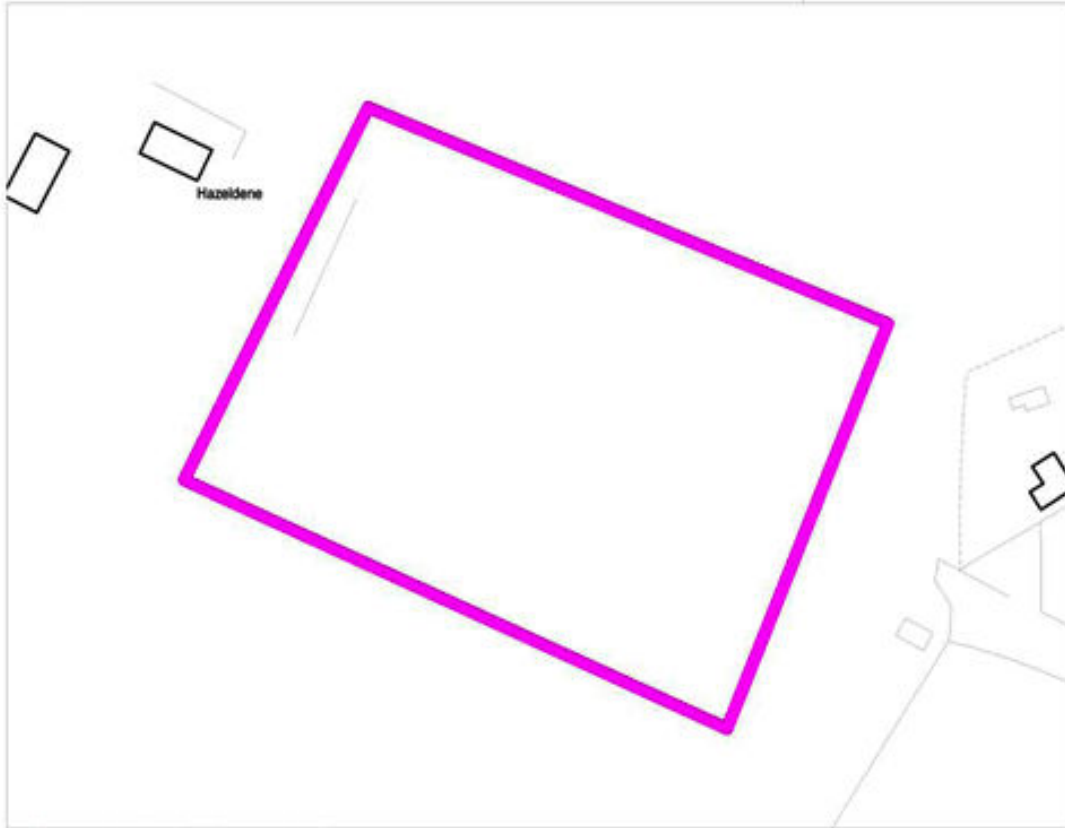
Additional Plan revising location of holiday cabin received on 2 November 2009

Appendices:

NONE.

ERECTION OF 2 X HOLIDAY CABINS

S/2009/900



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HAZELDENE GILES LANE LANDFORD SALISBURY

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Deadline	08/01/10		
Application Number:	S/2009/1704		
Site Address:	HIGH HOUSE LOWER CHICKSGROVE TISBURY SALISBURY SP3 6NB		
Proposal:	INTERNAL AND EXTERNAL ALTERATIONS AND EXTENSIONS		
Applicant/ Agent:	MR SIMON RUTTER		
Parish:	SUTTON MANDEVILLE		
Grid Reference:	397414.3 129255.5		
Type of Application:	FULL		
Conservation Area:		LB Grade:	II
Case Officer:	Mr W Simmonds	Contact Number:	01722 434553

Reason for the application being considered by Committee

Councillor Green has requested that this item be determined by Committee due to:

- the scale of the development
- visual impact on the surrounding area
- design
- local interest

1. Purpose of Report

To consider the above application and to recommend that planning permission be REFUSED

2. Main Issues

The main issues to consider are :

5. Impact on the surrounding AONB
6. Housing Restraint Area considerations
7. Impact on the character and setting of listed building(s)
8. Scale design and materials
9. Impact on neighbour amenity
10. Nature conservation interests

3. Site Description

High House is a grade II listed cottage situated on the eastern side of Lower Chicksgrove. The cottage is a two storey detached dwellinghouse believed to date from the early 18th Century and has a 19th Century lean-to addition on the north side elevation, together with a two storey 20th Century extension adjoining the east (rear) elevation.

The original listed cottage comprises of natural stone elevations under a slate roof. The cottage is of simple rectangular design and modest proportions.

4. Planning History

77/0199	PORCH OVER EXISTING ENTRANCE DOOR AND 2 NO DORMER WINDOWS	AC	13-04-77
00/1109	ERECTION OF CONSERVATORY	AC	03-08-00
00/1110LB	ERECTION OF CONSERVATORY	AC	03-08-00
S/2008/1684	CHANGE OF USE OF LAND FROM AGRICULTURAL TO EQUINE, CONSTRUCTION OF ALL WEATHER ARENA/ MENAGE	AC	20/11/08
S/2008/1700	ERECT DETACHED STABLE BLOCK	AC	20/11/08
S/2009/1710	NEW ACCESS AND DRIVE, GARAGE, SWIMMING POOL WITH PLANT ROOM AND ASSOCIATED GARDEN WALL.	WD	21/12/09

5. The Proposal

The application proposes alterations and enlargements to the existing two storey rear addition, including an increase by approximately two metres in the length of the building (over two storeys) to the rear together with a new first floor projecting 'oriel' window.

Also proposed is an increase in the footprint of the rear addition by approximately 2 metres along the full length (as extended) of the northern elevation, being approximately 14 metres in length. Also proposed within the extended north elevation are two two-storey tower elements, one hipped and one with full gable to the existing ridge height of the existing rear addition.

Within the south elevation of the rear addition, changes include a new (third) dormer window at first floor level within the extended part of the roof, alterations to the existing two dormer windows, and the provision of a new conservatory of approximate dimensions 5m wide by 2.6m depth.

Within the north elevation of the existing lean-to addition to the main cottage, alterations to the two north facing windows are proposed by way of being re-set at a lower level within the wall.

6. Planning Policy

- Salisbury adopted (saved) local plan policy G2 (General Criteria for Development)
- Salisbury adopted (saved) local plan policy D3 (Extensions)
- Salisbury adopted (saved) local plan policies CN3 & CN5 (Listed Buildings)
- Salisbury adopted (saved) local plan policy H19 (Housing Restraint Areas)
- Salisbury adopted (saved) local plan policy C5 (Landscape Conservation)

- Salisbury adopted (saved) local plan policy C12 (Nature Conservation)
- Planning Policy Guidance 15 – Planning and the Historic Environment (PPG15)
- Planning Policy Statement 9 – Biodiversity and Geological Conservation

7. Consultations

WCC Highways

No Highway objection

Conservation officer

Strongly objects to the proposals

Rights of Way

No objection

District Ecologist

Advice provided re the three tests set out within the Habitats regulations 1994

AONB group office

Concerns expressed that the external details appear slightly strange for the character of the existing building, comment re access (relevant to withdrawn application S/2009/1710)

Sutton Mandeville Parish Council

No comment

8. Publicity

The application was advertised by press notice, site notice and neighbour notification letters
Expiry date 17.12.09

No third party representations in respect of the proposed development were received

9. Planning Considerations

9.1 Scale, design and materials and the impact of the proposals on the listed building

The application proposes alterations and enlargements to the existing two storey rear addition, including an increase by approximately two metres in the length of the building (over two storeys) to the rear together with a new first floor projecting 'oriel' window.

Also proposed is an increase in the footprint of the rear addition by approximately 2 metres along the full length (as extended) of the northern elevation, being approximately 14 metres in

length. Also proposed within the extended north elevation are two two-storey tower elements, one hipped and one with full gable to the existing ridge height of the existing rear addition.

Within the south elevation of the rear addition, changes include a new (third) dormer window at first floor level within the extended part of the roof, alterations to the existing two dormer windows, and the provision of a new conservatory of approximate dimensions 5m wide by 2.6m depth.

Within the north elevation of the existing lean-to addition to the main cottage, alterations to the two north facing windows are proposed by way of being re-set at a lower level within the wall.

In terms of the scale, design, character and setting of the original listed cottage, the existing two storey rear addition (being in part a converted attached garage) is already considered to constitute a relatively large addition to the listed building which, notwithstanding its subservient ridge height to the main roof of the original cottage, by reason of its matching width to that of the original cottage, and length which at approximately 12.5 metres already exceeds the length of the original cottage by approximately 3.5 metres, already constitutes a prominent addition to the listed building that is less subservient than would normally be considered appropriate to its character and setting.

In view of the scale of the existing addition to the property, the principle of further significant enlargements to the property would appear to be unlikely to be acceptable and will require very close consideration in respect of their impact on the character and setting of the listed building.

It is considered that the proposal to substantially increase the footprint and mass of the existing two storey rear addition both at the north side and the eastern end, together with the incorporation of design features that bear no relationship to the existing simple and modest character of the listed building (i.e. the first floor hanging 'oriel' window feature in the rear and the two two-storey stone 'tower' features on the side), would have a very significant adverse impact on the character and setting of the listed building.

In respect of the proposed glazed garden room/conservatory adjoining the south elevation, this feature, by introducing a projecting built feature within the south facing elevation, would be at odds with the general linear form of the existing building, thereby resulting in a feature that would be discordant with the scale, form, design and character of the existing listed building.

In these respects the comments of the Conservation officer are particularly relevant and as such have been included below in full:

High House is a grade II listed cottage on the eastern side of Lower Chicksgrove. Believed to date from the early 18th century, with a full width 19th century leanto on the north side and a 20th century converted garage attached to the east. This later extension was converted into accommodation with dormers after an application in 1977, and its rear wall aligns with the rear wall of the original cottage. This addition is already one metre wider than the original house to which it is attached, and despite its slightly lower ridge, it has a prominent presence which is less subservient than one would normally wish for. The proposal, then, to extend this a further 3m to the east and adding a dormer, would worsen this situation, adversely affecting the setting of the listed building. The design of the eastern elevation with a first floor bay appears to introduce a substantially different design approach, seemingly quite Arts & Crafts inspired, and in my view sits uncomfortably with the unaltered southern elevation of the listed building. The substantial stone gables on the northern side are almost baronial in their treatment, sitting well with

the proposed eastern elevation but bearing no relationship to the historic elements of the building, which it is our duty to protect. These gables also project some way to the rear of the existing rear wall which is extended by the use of a catslide arrangement, thus raising significant concerns of a dominant and overbearing extension. The proposal to add a glazed garden room to the southern elevation of this part only serves to exacerbate the situation.

The changes to the dormers are generally acceptable, although the details provided appear to show double glazed units with applied glazing bars, with which I also have concerns.

There is also a proposal to alter the windows on the 19th century leanto as the existing openings are high internally. Rather than lower just the foot of the window, it is shown that the whole window would be lowered; this would lead to a relatively unusual arrangement, as it is normal to have windows up to the eaves plate, or under a simple arch at the eaves.

The internal alterations are modest and relatively innocuous.

In my opinion, the proposals would adversely affect the listed building in several ways and introduce new styles and forms which are incongruous with its existing character. I therefore object strongly to the proposals.

Therefore it is considered the proposed development, by reason of the additional scale and mass it would add to the already significant two storey rear extension, and by reason of the introduction of design features that bear no relationship to the existing simple and modest character of the listed building (i.e. the first floor handing 'oriel' window feature in the rear and the two two-storey stone 'tower' features on the side), would have a significant adverse impact on the character and setting of the listed building.

The alterations to dormer windows within the south facing roof elevation are relatively minor and the specific details of glazing and materials could be controlled by a Condition requiring such details to be approved in writing.

9.2 Impact on neighbour amenity

By reason of the distance and relationship between the application site and the nearest neighbouring residential properties, the proposal is not considered likely to unduly disturb, interfere, conflict with or overlook adjoining dwellings or uses to the detriment of existing occupiers.

9.3 Impact on the designated Housing Restraint Area

By reason of the additional scale and mass the proposed development would add to the already significant two storey rear extension, and by reason of the introduction of design features that bear no relationship to the existing simple and modest character of the listed building (i.e. the first floor handing 'oriel' window feature in the rear and the two two-storey stone 'tower' features on the side), would have a significant adverse impact on the character and setting of the listed building.

Such adverse impact on the character and setting of the listed building, it is considered, would in turn adversely affect the character of the settlement/neighbourhood designated as a Housing

Restraint Area.

9.4 Impact on the surrounding AONB

For the reasons described in 9.1 and 9.3 (above) it is considered the proposed development would be out of sympathy with the landscape of the on the surrounding Cranborne Chase and West Wiltshire Downs Area of Outstanding Natural Beauty, in general and within the immediate locality.

9.5 Nature conservation interests

The protected species survey provided by the applicant (as undertaken by Fieldwork Ecological Services Ltd in November 2009) indicates that bats have been using the loft space within the two storey rear extension. The evidence indicates the presence of a pipistrelle bat roost, possibly a maternity roost which has been used over a period of time including the summer of 2009.

The proposed alterations to the rear extension and dormer windows would affect the roost, however the applicant's consultant proposes to incorporate mitigation in the form of installing bat-access tiles to ensure that bats will be able to continue roosting in the future.

The District Ecologist has highlighted that, should a Natural England licence be required in respect of the works and the impact on bats, then the three tests of the Habitats regulations 1994 (as amended) should be considered. Of the three tests, test number 1 asks whether the development is required for imperative reasons of overriding public interest including those of a social and economic nature.

In respect of the proposed development at High House, the proposal is considered discordant with local plan policies by reason of the additional scale and mass it would add to the already significant two storey extension at the rear of the property, and by reason of the introduction of design features that bear no relationship to the existing simple and modest character of the listed building (i.e. the first floor hanging 'oriel' window feature in the rear and the two two-storey stone 'tower' features on the side), would have a significant adverse impact on the character and setting of the listed building.

In these respects the proposal is not considered to be required for imperative reasons of overriding public interest, and would, by reason of its adverse impact on the character and setting of the listed building, be detrimental to the public interest. In this respect it is considered the proposal fails the first test as set out in the Habitats regulations 1994 (as amended).

However, the timing and duration of the proposed development could be controlled by Condition to ensure that works are only carried out between October and March, thereby negating any requirement for a licence from Natural England.

10. Conclusion

The proposed development, by reason of the additional scale and mass it would add to the already significant two storey extension at the rear of the property, and by reason of the introduction of design features that bear no relationship to the existing simple and modest character of the listed building (i.e. the first floor hanging 'oriel' window feature in the rear and

the two two-storey stone 'tower' features on the side), would have a significant adverse impact on the character and setting of the listed building.

The proposed glazed garden room/conservatory adjoining the south elevation would, by introducing a projecting built feature within the south facing elevation, be at odds with the general linear character and form of the existing building, thereby resulting in a feature that would be discordant with the scale, form, design and character of the existing listed building.

The proposed development thereby fails to accord with the provisions of the Development Plan, and in particular Policies D3 (Extensions), CN3 (Listed Buildings), H19 (Housing Restraint Areas) and C5 (Landscape Conservation) of the saved policies of the adopted Salisbury District Local Plan and the aims and objectives of PPG 15 (Planning and the Historic Environment), insofar as the proposed development is considered incompatible in terms of the scale, design, materials and character of the existing listed cottage, and would have an adverse impact on its character and setting. The proposed development would thereby have an adverse impact on the character of the designated Housing restraint Area and would be out of sympathy with the landscape of the on the surrounding Cranborne Chase and West Wiltshire Downs Area of Outstanding Natural Beauty in general and within the immediate locality.

Recommendation

It is recommended that planning permission be REFUSED for the following reasons:

The proposed development, by reason of the additional scale and mass it would add to the already significant two storey extension at the rear of the property, and by reason of the introduction of design features that bear no relationship to the existing simple and modest character of the listed building (i.e. the first floor hanging 'oriel' window feature in the rear and the two two-storey stone 'tower' features on the side), would have a significant adverse impact on the character and setting of the listed building.

The proposed glazed garden room/conservatory adjoining the south elevation would, by introducing a projecting built feature within the south facing elevation, be at odds with the general linear character and form of the existing building, thereby resulting in a feature that would be discordant with the scale, form, design and character of the existing listed building.

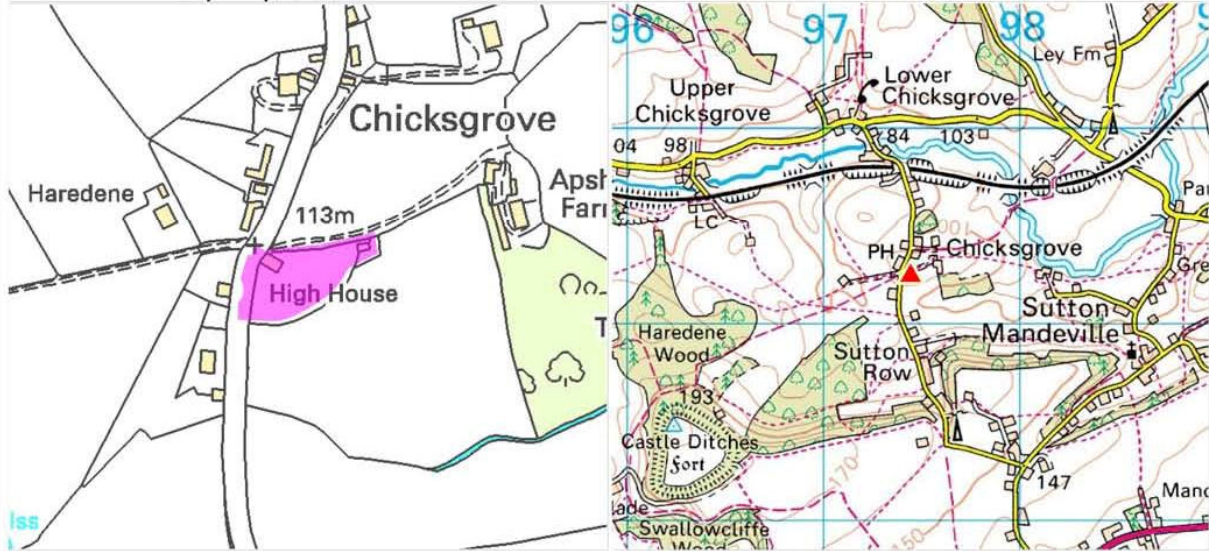
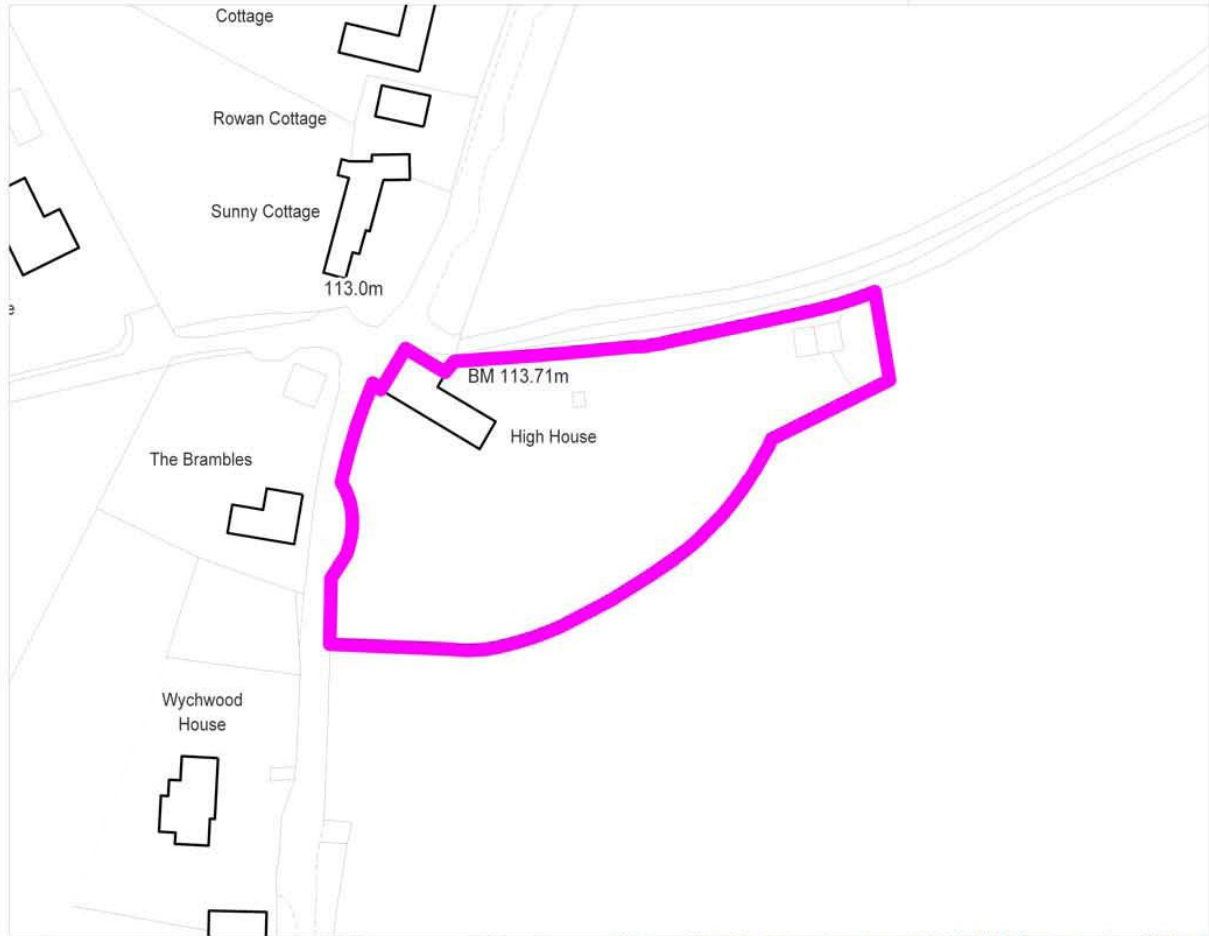
The proposed development thereby fails to accord with the provisions of the Development Plan, and in particular Policies D3 (Extensions), CN3 (Listed Buildings), H19 (Housing Restraint Areas) and C5 (Landscape Conservation) of the saved policies of the adopted Salisbury District Local Plan and the aims and objectives of PPG 15 (Planning and the Historic Environment), insofar as the proposed development is considered incompatible in terms of the scale, design, materials and character of the existing listed cottage, and would have an adverse impact on its character and setting. The proposed development would thereby have an adverse impact on the character of the designated Housing restraint Area and would be out of sympathy with the landscape of the on the surrounding Cranborne Chase and West Wiltshire Downs Area of Outstanding Natural Beauty in general and within the immediate locality.

Appendices:

None

Background Documents Used in the Preparation of this Report:	<ul style="list-style-type: none">• Development plan documents as detailed at 6 (above)• Habitats regulations 1994 (as amended)
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Site Visit:



Deadline	08/01/10		
Application Number:	S/2009/1705		
Site Address:	HIGH HOUSE LOWER CHICKSGROVE TISBURY SALISBURY SP3 6NB		
Proposal:	INTERNAL AND EXTERNAL ALTERATIONS AND EXTENSIONS		
Applicant/ Agent:	MR SIMON RUTTER		
Parish:	SUTTON MANDEVILLE		
Grid Reference:	397414.3 129255.5		
Type of Application:	LBC		
Conservation Area:		LB Grade:	II
Case Officer:	Mr W Simmonds	Contact Number:	01722 434553

Reason for the application being considered by Committee

Councillor Green has requested that this item be determined by Committee due to:

- the scale of the development
- visual impact on the surrounding area
- design
- local interest

1. Purpose of Report

To consider the above application and to recommend that listed building consent be REFUSED

2. Main Issues

The main issues to consider are :

- Impact on the character and setting of listed building(s)

3. Site Description

High House is a grade II listed cottage situated on the eastern side of Lower Chicksgrove. The cottage is a two storey detached dwellinghouse believed to date from the early 18th Century and has a 19th Century lean-to addition on the north side elevation, together with a two storey 20th Century extension adjoining the east (rear) elevation.

The original listed cottage comprises of natural stone elevations under a slate roof. The cottage is of simple rectangular design and modest proportions.

4. Planning History

77/0199	PORCH OVER EXISTING ENTRANCE DOOR AND 2 NO DORMER WINDOWS	AC	13-04-77
00/1109	ERECTION OF CONSERVATORY	AC	03-08-00
00/1110LB	ERECTION OF CONSERVATORY	AC	03-08-00
S/2008/1684	CHANGE OF USE OF LAND FROM AGRICULTURAL TO EQUINE, CONSTRUCTION OF ALL WEATHER ARENA/ MENAGE	AC	20/11/08
S/2008/1700	ERECT DETACHED STABLE BLOCK	AC	20/11/08
S/2009/1710	NEW ACCESS AND DRIVE, GARAGE, SWIMMING POOL WITH PLANT ROOM AND ASSOCIATED GARDEN WALL.	WD	21/12/09

5. The Proposal

The application proposes alterations and enlargements to the existing two storey rear addition, including an increase by approximately two metres in the length of the building (over two storeys) to the rear together with a new first floor projecting 'oriel' window.

Also proposed is an increase in the footprint of the rear addition by approximately 2 metres along the full length (as extended) of the northern elevation, being approximately 14 metres in length. Also proposed within the extended north elevation are two two-storey tower elements, one hipped and one with full gable to the existing ridge height of the existing rear addition.

Within the south elevation of the rear addition, changes include a new (third) dormer window at first floor level within the extended part of the roof, alterations to the existing two dormer windows, and the provision of a new conservatory of approximate dimensions 5m wide by 2.6m depth.

Within the north elevation of the existing lean-to addition to the main cottage, alterations to the two north facing windows are proposed by way of being re-set at a lower level within the wall.

6. Planning Policy

- Salisbury adopted (saved) local plan policy CN3 (Listed Buildings)
- Planning Policy Guidance 15 – Planning and the Historic Environment (PPG15)

7. Consultations

Conservation officer

Strongly objects to the proposals (see report text at 9.1)

Sutton Mandeville Parish Council

No comment

8. Publicity

The application was advertised by press notice, site notice and neighbour notification letters
Expiry date 17.12.09

No third party representations in respect of the proposed development were received.

9. Planning Considerations

9.1 Scale, design and materials and the impact of the proposals on the listed building

The application proposes alterations and enlargements to the existing two storey rear addition, including an increase by approximately two metres in the length of the building (over two storeys) to the rear together with a new first floor projecting 'oriel' window.

Also proposed is an increase in the footprint of the rear addition by approximately 2 metres along the full length (as extended) of the northern elevation, being approximately 14 metres in length. Also proposed within the extended north elevation are two two-storey tower elements, one hipped and one with full gable to the existing ridge height of the existing rear addition.

Within the south elevation of the rear addition, changes include a new (third) dormer window at first floor level within the extended part of the roof, alterations to the existing two dormer windows, and the provision of a new conservatory of approximate dimensions 5m wide by 2.6m depth.

Within the north elevation of the existing lean-to addition to the main cottage, alterations to the two north facing windows are proposed by way of being re-set at a lower level within the wall.

In terms of the scale, design, character and setting of the original listed cottage, the existing two storey rear addition (being in part a converted attached garage) is already considered to constitute a relatively large addition to the listed building which, notwithstanding its subservient ridge height to the main roof of the original cottage, by reason of its matching width to that of the original cottage, and length which at approximately 12.5 metres already exceeds the length of the original cottage by approximately 3.5 metres, already constitutes a prominent addition to the listed building that is less subservient than would normally be considered appropriate to its character and setting.

In view of the scale of the existing addition to the property, the principle of further significant enlargements to the property would appear to be unlikely to be acceptable and will require very close consideration in respect of their impact on the character and setting of the listed building.

It is considered that the proposal to substantially increase the footprint and mass of the existing two storey rear addition both at the north side and the eastern end, together with the

incorporation of design features that bear no relationship to the existing simple and modest character of the listed building (i.e. the first floor hanging 'oriel' window feature in the rear and the two two-storey stone 'tower' features on the side), would have a very significant adverse impact on the character and setting of the listed building.

In respect of the proposed glazed garden room/conservatory adjoining the south elevation, this feature, by introducing a projecting built feature within the south facing elevation, would be at odds with the general linear form of the existing building, thereby resulting in a feature that would be discordant with the scale, form, design and character of the existing listed building.

In these respects the comments of the Conservation officer are particularly relevant and as such have been included below in full:

High House is a grade II listed cottage on the eastern side of Lower Chicks Grove. Believed to date from the early 18th century, with a full width 19th century leanto on the north side and a 20th century converted garage attached to the east. This later extension was converted into accommodation with dormers after an application in 1977, and its rear wall aligns with the rear wall of the original cottage. This addition is already one metre wider than the original house to which it is attached, and despite its slightly lower ridge, it has a prominent presence which is less subservient than one would normally wish for. The proposal, then, to extend this a further 3m to the east and adding a dormer, would worsen this situation, adversely affecting the setting of the listed building. The design of the eastern elevation with a first floor bay appears to introduce a substantially different design approach, seemingly quite Arts & Crafts inspired, and in my view sits uncomfortably with the unaltered southern elevation of the listed building. The substantial stone gables on the northern side are almost baronial in their treatment, sitting well with the proposed eastern elevation but bearing no relationship to the historic elements of the building, which it is our duty to protect. These gables also project some way to the rear of the existing rear wall which is extended by the use of a catslide arrangement, thus raising significant concerns of a dominant and overbearing extension. The proposal to add a glazed garden room to the southern elevation of this part only serves to exacerbate the situation.

The changes to the dormers are generally acceptable, although the details provided appear to show double glazed units with applied glazing bars, with which I also have concerns.

There is also a proposal to alter the windows on the 19th century leanto as the existing openings are high internally. Rather than lower just the foot of the window, it is shown that the whole window would be lowered; this would lead to a relatively unusual arrangement, as it is normal to have windows up to the eaves plate, or under a simple arch at the eaves.

The internal alterations are modest and relatively innocuous.

In my opinion, the proposals would adversely affect the listed building in several ways and introduce new styles and forms which are incongruous with its existing character. I therefore object strongly to the proposals.

Therefore it is considered the proposed development, by reason of the additional scale and mass it would add to the already significant two storey rear extension, and by reason of the introduction of design features that bear no relationship to the existing simple and modest

character of the listed building (i.e. the first floor hanging 'oriel' window feature in the rear and the two two-storey stone 'tower' features on the side), would have a significant adverse impact on the character and setting of the listed building.

10. Conclusion

The proposed development, by reason of the additional scale and mass it would add to the already significant two storey extension at the rear of the property, and by reason of the introduction of design features that bear no relationship to the existing simple and modest character of the listed building (i.e. the first floor hanging 'oriel' window feature in the rear and the two two-storey stone 'tower' features on the side), would have a significant adverse impact on the character and setting of the listed building.

The proposed glazed garden room/conservatory adjoining the south elevation would, by introducing a projecting built feature within the south facing elevation, be at odds with the general linear character and form of the existing building, thereby resulting in a feature that would be discordant with the scale, form, design and character of the existing listed building.

The proposed development thereby fails to accord with the provisions of the Development Plan, and in particular Policy CN3 (Listed Buildings) of the saved policies of the adopted Salisbury District Local Plan and the aims and objectives of PPG 15 (Planning and the Historic Environment), insofar as the proposed development is considered incompatible in terms of the scale, design, materials and character of the existing listed cottage, and would have an adverse impact on its character and setting.

Recommendation

REFUSE listed building consent for the following reasons:

The proposed development, by reason of the additional scale and mass it would add to the already significant two storey extension at the rear of the property, and by reason of the introduction of design features that bear no relationship to the existing simple and modest character of the listed building (i.e. the first floor hanging 'oriel' window feature in the rear and the two two-storey stone 'tower' features on the side), would have a significant adverse impact on the character and setting of the listed building.

The proposed glazed garden room/conservatory adjoining the south elevation would, by introducing a projecting built feature within the south facing elevation, be at odds with the general linear character and form of the existing building, thereby resulting in a feature that would be discordant with the scale, form, design and character of the existing listed building.

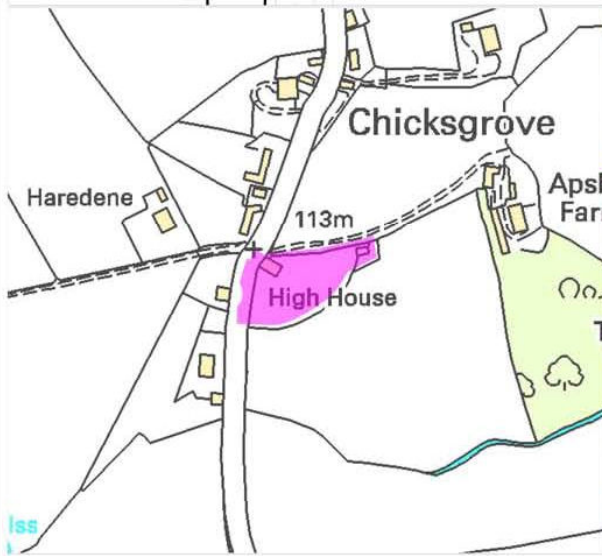
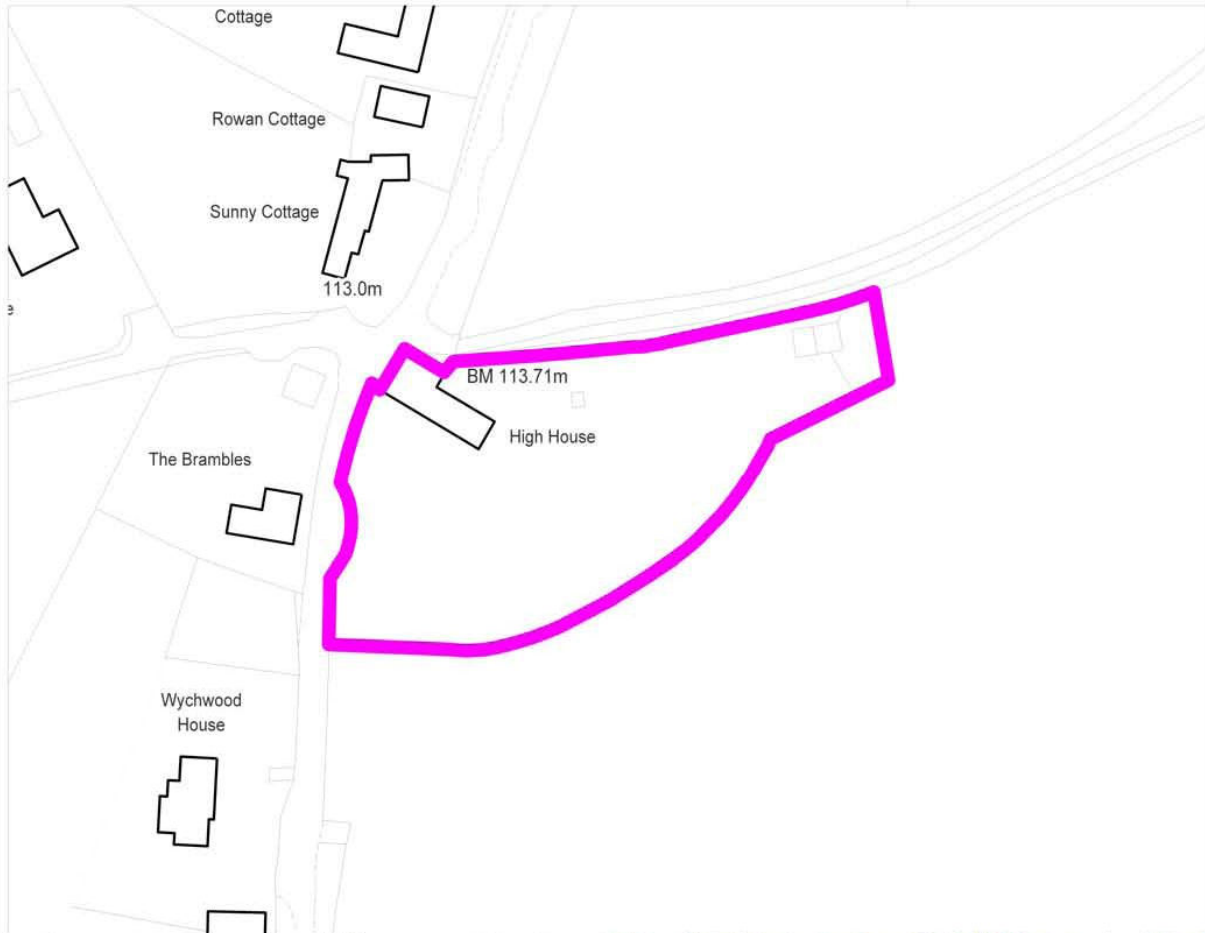
The proposed development thereby fails to accord with the provisions of the Development Plan, and in particular Policy CN3 (Listed Buildings) of the saved policies of the adopted Salisbury District Local Plan and the aims and objectives of PPG 15 (Planning and the Historic Environment), insofar as the proposed development is considered incompatible in terms of the scale, design, materials and character of the existing listed cottage, and would have an adverse impact on its character and setting.

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Appendices:	None
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Background Documents Used in the Preparation of this Report:	Development plan documents as detailed at 6 (above)
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Site Visit:



Deadline	10/12/09		
Application Number:	S/2009/1537		
Site Address:	WARE FARM BENN LANE FARLEY SALISBURY SP5 1AF		
Proposal:	ERECTION OF POLYTUNNEL		
Applicant/ Agent:	MRS FRANCCESCA WARE		
Parish:	PITTON & FARLEY		
Grid Reference:	422693 129362		
Type of Application:	FULL		
Conservation Area:	FARLEY	LB Grade:	
Case Officer:	Mr W Simmonds	Contact Number:	01722 434553

Reason for the application being considered by Committee

Councillor Devine has requested that this item be determined by Committee due to:

- Scale of development
- Visual impact upon the surrounding area

1. Purpose of Report

To consider the above application and to recommend that planning permission be GRANTED subject to conditions

2. Main Issues

The main issues to consider are :

- Impact on the existing character of the conservation area
- The principal of the proposed development
- Impact on the landscape of the surrounding Special Landscape Area
- Impact on the amenity of neighbours
- Scale, design and materials

3. Site Description

The application relates to an area of grassland/paddock of approximately 0.7Ha within the settlement of Farley. The application site is situated towards the eastern side of the settlement, and is within the designated conservation area and wider Special Landscape Area. The land adjoins the designated Housing Restraint Area to the north.

The application site comprises of two main paddocks and has a large barn in the south west corner with associated consolidated access track (from the gated access onto Ben Lane) and hardstanding area.

The land is bounded by hedgerows and post and rail timber fencing, and is understood to be under equine use.

4. Planning History

S/93/0635	O/L Agricultural dwelling and access	REF 01.07.93
S/92/0783	O/L Agricultural dwelling (cottage style)	REF 02.07.92
S/80/1157	O/L Two storey dwelling with gge & access	REF 05.11.80
S/80/1156	O/L Single storey dwelling with gge & access	WD 06.10.80
S/75/0444	O/L Two storey dwelling (chalet bungalow) with gge & access	REF 30.07.75

5. The Proposal

The application proposes the erection of a single polytunnel. The proposal would locate the structure within the eastern paddock, towards the north eastern boundary.

6. Planning Policy

The following policies are considered relevant to this proposal:

- G1 & G2 (General Principles for Development)
- CN8 & CN11 (Conservation Areas)
- C2 (The Rural Environment)
- C6 (Landscape Conservation)

7. Consultations

Conservation Officer – No objections to the proposal

Environment Agency – No objection

Pitton & Farley parish council – Object to the proposal on grounds of its use being unspecified, adverse impact on the Special landscape Area, and concerns in respect of the potential future commercial use of the structure/site.

8. Publicity

The application was advertised by site notice, press notice and neighbour notification letters
Expiry date 19.11.09

No third party letters have been received.

9. Planning Considerations

9.1 The principle of the proposed development

The application site is used (and appears to have been historically used) for the keeping of horses, and is therefore not currently in agricultural use. The use of the proposed polytunnel to

produce plants and vegetables for the applicants personal consumption/use is considered akin to an allotment use, that being a use which is widely accepted as being agricultural use (a view supported by case law and various decisions by planning Inspectors).

Whilst it is therefore clear that the provision of a polytunnel on the land for the purposes described would introduce an element of mixed use onto the site, the level of mixed (agricultural) use proposed is not considered capable/sufficient to trigger a change of use of the land from the accepted main equine use.

The proposal therefore, whilst introducing a small element of agricultural use onto the site, is considered acceptable in principle, subject to its accordance with Development Plan policies in respect of landscape impact, impact on the conservation area and impact on neighbour amenity.

9.2 Impact on conservation area and Special Landscape Area

The proposed building would consist of a single polytunnel of approximate dimensions 14m long x 7m wide x 3m high with double doors at the southern end. The construction of the polytunnel would consist of polythene membrane over a steel hooped framework over a 150mm hardcore base.

The polytunnel would be located within the eastern paddock, towards the north eastern boundary of the site.

The applicant has confirmed that site levels surrounding the building are to remain unaltered.

The applicant has indicated that the use of the polytunnel would be to grow plants and vegetables for her own use.

The proposal is considered to constitute a utilitarian agricultural-type structure that would not be inappropriate in the context the surrounding area in terms of its scale, design and materials.

The parish council has expressed concern in respect of the potential for alternative commercial uses of the polytunnel. These concerns could be mitigated by a planning Condition to control the use of the structure (i.e. preventing any commercial, industrial or business use).

The conservation officer has assessed the proposal and has no objections.

By reason of its agricultural appearance and its location in an area that is relatively well-screened by existing hedgerows to the south and west, and natural screening along the adjacent boundary to the immediate north, the proposed polytunnel structure is not considered likely to have an adverse impact on the surrounding conservation area, or the landscape of the Special Landscape Area.

9.3 Impact on the amenity of neighbours

The nearest residential neighbours to the site are Farley Farm Cottage to the north, North Gable to the west and Silverbirch Cottage to the south west.

The proposed polytunnel would be located approximately 35 metres from the closest dwelling at Farley Farm Cottage. Taking into consideration the distance and relationship between the site of the proposed polytunnel and the nearest neighbouring properties, it is considered the

proposed development would not unduly disturb, interfere, conflict with or overlook adjoining dwellings or uses to the detriment of existing occupiers.

10. Conclusion

The proposed development accords with the provisions of the Development Plan, and in particular policies G1 & G2 (General Criteria), CN8 & CN11 (Conservation Areas), C2 (The Rural Environment) & C6 (Landscape Conservation) of the saved policies of the adopted local plan, insofar as the proposed polytunnel is considered appropriate in terms of its scale, design and materials, would not unduly affect the amenity of neighbours, and would not adversely affect the existing character of the conservation area or the landscape of the surrounding Special landscape Area.

Recommendation

That the application be APPROVED for the following reason:

The proposed development accords with the provisions of the Development Plan, and in particular policies G1 & G2 (General Criteria), CN8 & CN11 (Conservation Areas), C2 (The Rural Environment) & C6 (Landscape Conservation) of the saved policies of the adopted local plan, insofar as the proposed polytunnel is considered appropriate in terms of its scale, design and materials, would not unduly affect the amenity of neighbours, and would not adversely affect the existing character of the conservation area or the landscape of the surrounding Special landscape Area.

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 not be used for any industrial, business or other commercial use/purpose.

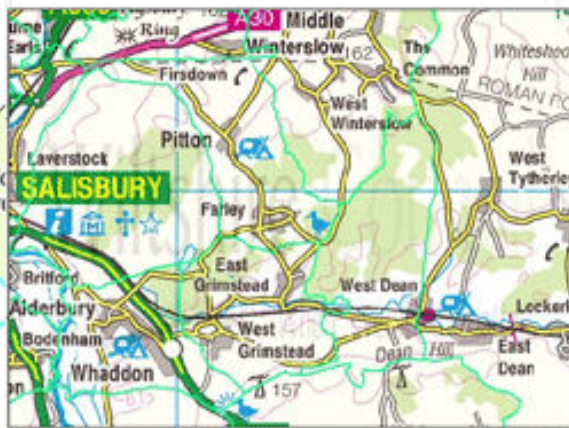
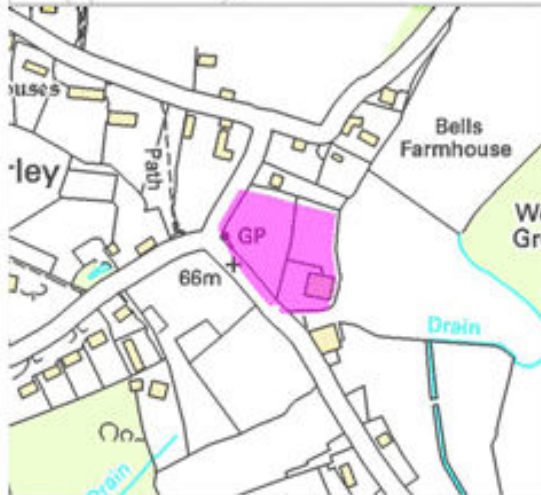
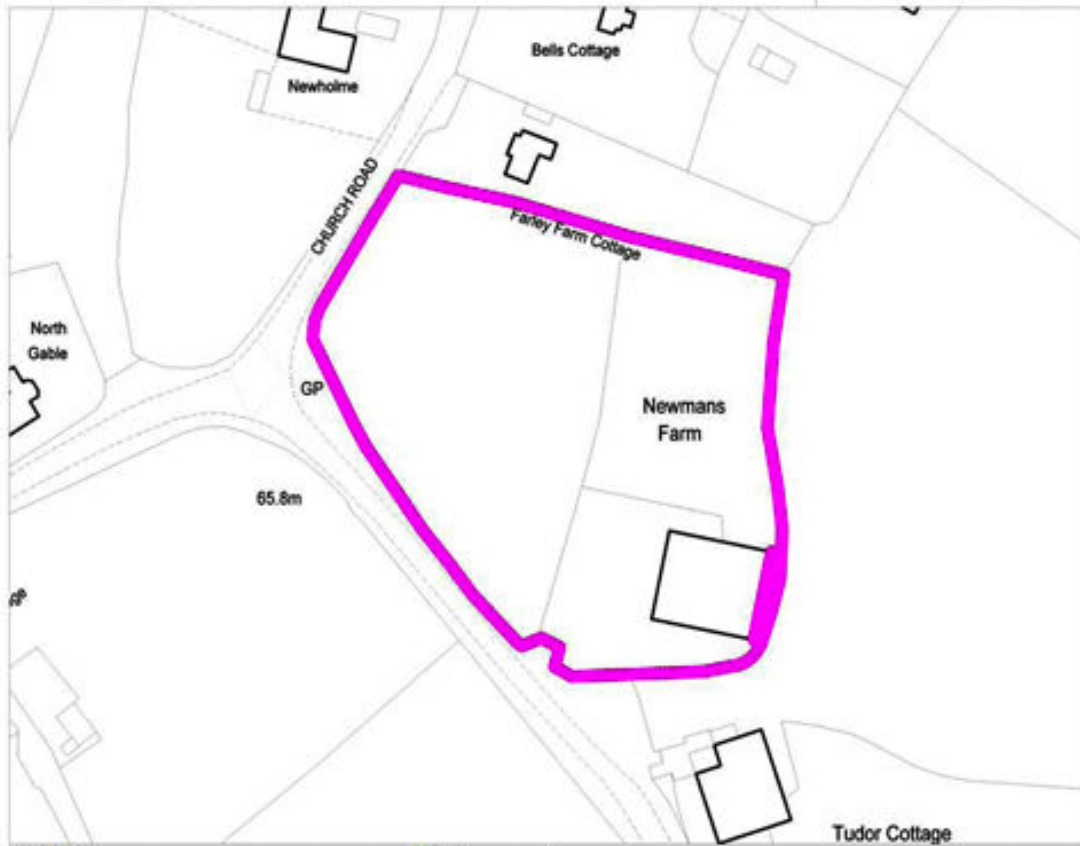
REASON: To allow the local planning authority to retain control over the use of the site in the interests of the appearance of the site and the amenities of the area.

POLICY- G1 & G2 (General Criteria), C2 (The Rural Environment), C8 (Conservation Areas) & C6 (Landscape Conservation)

Appendices:	None
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Background Documents Used in the	Development Plan policies as detailed at 6 (above) Pitton and Farley Parish Plan 2007
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Preparation of this Report:	
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Deadline	25/01/10		
Application Number:	S/2009/1784		
Site Address:	FRICKERS BARN SUTTON MANDEVILLE SALISBURY SP3 5NL		
Proposal:	ERECTION OF TWO 3.6M X 3.6M LOOSE BOXES WITH 3.6M X 2.7M TACK/STORE ROOM		
Applicant/ Agent:	MR TOBY GREEN		
Parish:	SUTTON MANDEVILLE		
Grid Reference:	398441 127937		
Type of Application:	FULL		
Conservation Area:		LB Grade:	
Case Officer:	Mr B Hatt	Contact Number:	01722 434541

Reason For The Application Being Considered By Committee

To consider the above application which has been made by a relative of a Councillor

1. Purpose of Report

To consider the above application and to recommend that planning permission be APPROVED

2. Main Issues

The main issues to consider are :

- Impact on amenities
- Scale, design and impact on Area of Outstanding Natural Beauty

3. Site Description

Frickers a detached property located within the rural settlement of Sutton Mandeville and is within an Area of Outstanding Natural Beauty.

4. Planning History

Application number	Proposal	Decision
s/2005/0824	Construction Of Agricultural Workers Dwelling	A/C 01/11/05

5. The Proposal

Permission is sought for the erection of two loose horse boxes and tack/store room

6. Planning Policy

The following policies are considered relevant to this proposal

- G2- General Criteria for development
- D3- Good design
- C5- Landscape Conservation and Area of Outstanding Natural Beauty

7. Consultations

Town/ Parish council

No objection

8. Publicity

The application was advertised by site notice/press notice /neighbour notification
Expiry date 31/12/09

9. Planning Considerations

9.1 Impact on amenities

The proposal is not considered to have an impact on the amenities of the surrounding area due to its location. The loose boxes are located at the south west corner of the adjoining field to Frickers Barn and as such will have a minimal impact on the surrounding Area of Outstanding Natural Beauty. The proposal will be situated over 40m from the highway and will be screened from view by existing buildings further reducing the impact on the surrounding area. The impact is further reduced as a hedgerow to the western boundary will screen the proposal from view as such is considered that the proposal will not have a detrimental impact on the amenities of the surrounding area.

9.2 Scale, design and impact on Area of Outstanding Natural Beauty

The scale and design of the proposal are considered to be acceptable due to the appropriate location of the loose boxes. The timber construction and the low roof pitch will ensure that the proposal merges with the rural surroundings and respects the character of the immediately surrounding area. Furthermore the orientation of the structure ensures that it will not introduce a bulky or oppressive feature into the open countryside. The proposal is of a traditional design for a building of this nature that is not an uncommonly found in locations such as this and is sympathetic to its rural surroundings and the Area of Outstanding Natural Beauty.

10. Conclusion

The proposed loose boxes and store/tack room is considered on balance to be acceptable in terms of scale design, impact on amenities and the Area of Outstanding Natural Beauty for the reasons outlined above and as such in accordance with the provisions of the Development Plan, and in particular Policies G2, D3, C5 of the adopted Salisbury District Local Plan.

Recommendation

It is recommended that planning permission is APPROVED for the following reasons:

The proposed loose boxes and store/tack room is considered on balance to be acceptable in terms of scale design, impact on amenities and the Area of Outstanding Natural Beauty for the reasons outlined above and as such in accordance with the provisions of the Development Plan, and in particular Policies G2, D3, C5 of the adopted Salisbury District Local Plan.

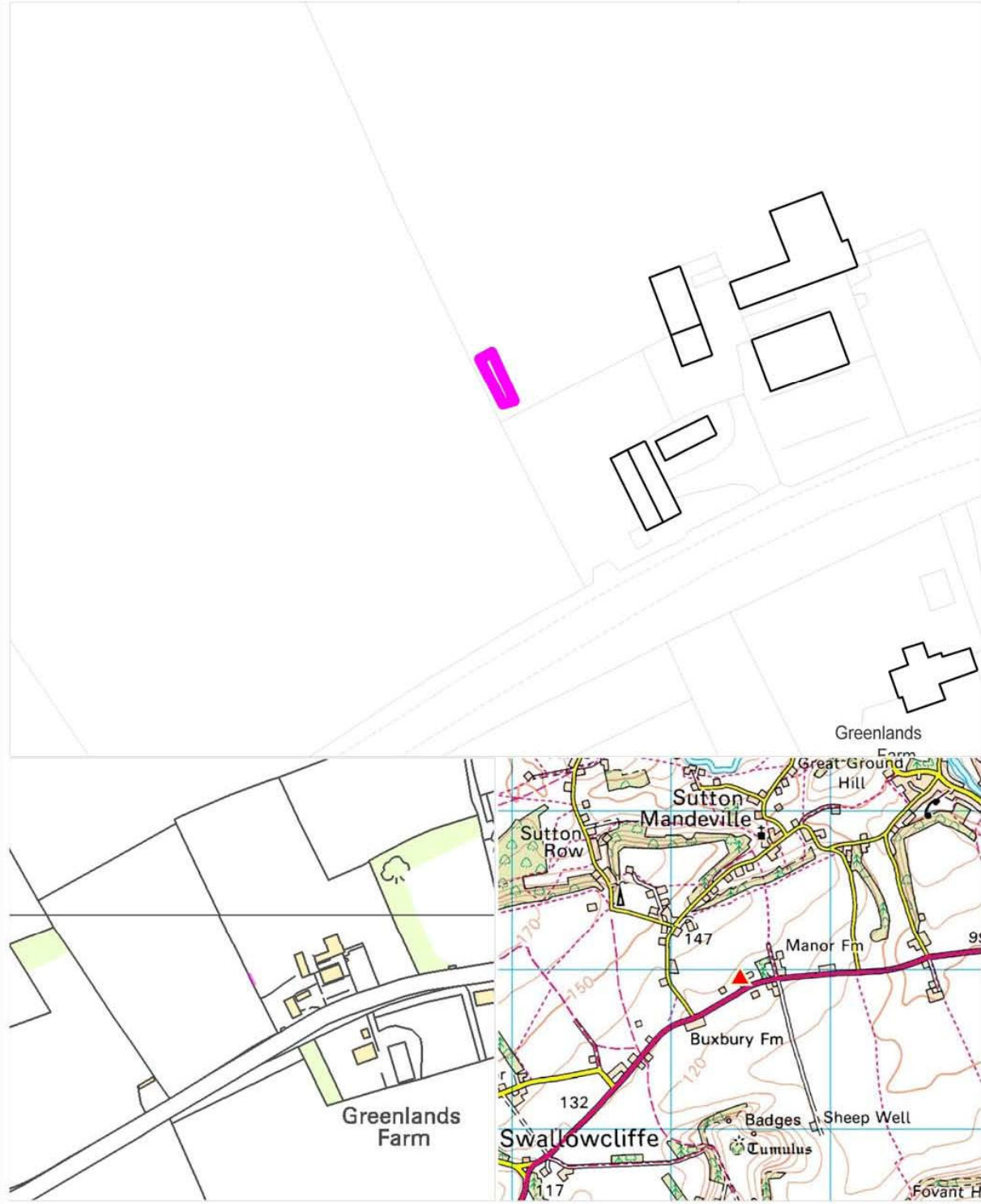
Appendices:	None
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Background Documents Used in the Preparation of this Report:	Elevations Floor plan Site location plan
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ERECTION OF TWO 3.6M X 3.6M LOOSE BOXES WITH 3.6M X 2.7M TACK/STORE ROOM

Site Visit:

S/2009/1784



Wiltshire Council
Where everybody matters

FRICKERS BARN, SP3 5NL

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Report

Report Subject: Outline application S/2008/0779 for mixed use development of land to comprise around 90 dwellings and 3800 square metres of B1 business floorspace (including associated highway infrastructure) and landscaping on land off Hindon Lane, Tisbury.

Report to: Southern Area Planning Committee

Date: 8th January 2010

Author: Oliver Marigold, Senior Planning Officer

1. Report Summary:

- 1.1 That the resolution to grant planning permission, made at the Southern Area Planning Committee on 27th August 2009, should be varied to allow a further period of time to complete the legal agreement beyond the previously agreed time period.

2. Considerations:

- 2.1 The background to this report is the resolution of the former Western Area Committee of Salisbury District Council to grant planning permission for mixed use development of land off Hindon Lane, Tisbury, for around 90 dwellings and 3800 square metres of B1 business floorspace (including associated highway infrastructure). This was subject to a legal agreement under s106 of the Town and Country Planning Act 1990 to secure a number of planning requirements.
- 2.2 The requirements and the legal agreement relate to:
- (1) the provision of public recreational open space;
 - (2) the provision of affordable housing;
 - (3) the phasing of development;
 - (4) the sum in relation to policy R4 (the community land) and R2 (public recreation facilities);
 - (5) the provision of educational facilities;
 - (6) the need for a Travel Plan and the requirements of the Highway Authority;
 - (7) Public art;
 - (8) the satisfactory long term operation and maintenance of the surface water drainage scheme;
 - (9) Landscape Management;
 - (10) A contribution in relation to bin storage and kerbside waste management facilities.
- 2.3 A time limit was originally imposed for the legal agreement to be completed within 3 months of the resolution, ie by 11th March 2009. It was subsequently agreed, at Western Area Committee on 19th March, that this period could be extended until 16th August 2009 because the original time-frame was too short to allow negotiations to be completed. This was extended again at the 27th August 2009 meeting, to last until 16th January 2010.
- 2.4 In the event that an agreement was not reached within the deadline, the resolution gives the Head of Development Services delegated authority to refuse permission on the grounds of loss of public open space (compliance with R2), lack of affordable housing, inadequate travel planning, highway safety, inadequate access, surface water drainage, unsatisfactory phasing of development - ie all those issues that would need to be achieved by means of the legal agreement.

2.5 Since the last resolution, officers have negotiated the terms of the s106 agreement with the applicants to both side's satisfaction. However, the final signing of the agreement involves a number of third parties and it is because of delays with these parties that the agreement has not yet been signed.

2.6 It is hoped that the legal agreement can be completed, and the decision notice issued, within a period of three months. However, it would be preferable for this period to be extended without further recourse to committee, under the Area Development Manager's delegated powers.

3. Options for consideration:

3.1 Members have two options. They could either decide to extend the deadline, or not extend the deadline.

Option 1

3.2 The effect of not extending the deadline would be to refuse permission, on the basis that the agreement cannot be secured in time, and that without the legal agreement a number of key planning requirements would not be met.

3.3 However, in the event of this option being taken the applicants would be likely to appeal against the refusal to the Secretary of State. An appeal would be likely to involve the Council in significant time and expense and the appeal would almost certainly be allowed, because in the time that an appeal takes (at least 6 months) the legal agreement should have been completed anyway.

Option 2

3.4 Alternatively, it would be preferable to extend the deadline to allow the legal agreement to be completed and for the planning application to be submitted and approved. It is considered that a period of three months is likely to sufficient but it would be preferable for this to be extended under officers' delegated powers. Therefore this option is recommended.

4. Recommendation:

4.1 That option 2 be followed and the resolution approved on 19th March 2008 in respect of this application be varied so that the s106 agreement has to be completed before 16th January 2010, but that delegated authority be given to the Area Development Manager to extend this period, or to refuse permission for the reasons stated in the original resolution.

5. Background Papers:

5.1 The original report to Western Area Committee on 11th December 2008 and the minutes of that meeting (which were amended at the meeting on 22nd January), and of the Southern Area Committee on 27th August 2009.

Report

Report Subject: Outline application S/2008/0779 for mixed use development of land to comprise around 90 dwellings and 3800 square metres of B1 business floorspace (including associated highway infrastructure) and landscaping on land off Hindon Lane, Tisbury.

Report to: Southern Area Planning Committee

Date: 27th August 2009

Author: Oliver Marigold, Senior Planning Officer

1. Report Summary:

1.1 That the resolution to grant planning permission, made at the Western Area Committee of the former Salisbury District Council on 19th March 2009, should be varied to allow a further period of time to complete the legal agreement beyond the previously agreed time period.

2. Considerations:

2.1 The background to this report is the resolution of the former Western Area Committee to grant planning permission for mixed use development of land off Hindon Lane, Tisbury, for around 90 dwellings and 3800 square metres of B1 business floorspace (including associated highway infrastructure). This was subject to a legal agreement under s106 of the Town and Country Planning Act 1990 to secure a number of planning requirements.

2.2 The requirements and the legal agreement relate to:

- (1) the provision of public recreational open space;
- (2) the provision of affordable housing;
- (3) the phasing of development;
- (4) the sum in relation to policy R4 (the community land) and R2 (public recreation facilities);
- (5) the provision of educational facilities;
- (6) the need for a Travel Plan and the requirements of the Highway Authority;
- (7) Public art;
- (8) the satisfactory long term operation and maintenance of the surface water drainage scheme;
- (9) Landscape Management;
- (10) A contribution in relation to bin storage and kerbside waste management facilities.

APPENDIX 1 – Hindon Lane, Tisbury

Southern Area Planning Committee Report - 27th August 2009

- 2.3 A time limit was originally imposed for the legal agreement to be completed within 3 months of the resolution, ie by 11th March 2009. It was subsequently agreed, at Western Area Committee on 19th March, that this period could be extended until 16th August 2009 because the original time-frame was too short to allow negotiations to be completed.
- 2.4 In the event that an agreement was not reached within the deadline, the resolution gives the Head of Development Services delegated authority to refuse permission on the grounds of loss of public open space (compliance with R2), lack of affordable housing, inadequate travel planning, highway safety, inadequate access, surface water drainage, unsatisfactory phasing of development - ie all those issues that would need to be achieved by means of the legal agreement.
- 2.5 Since the resolution, officers have sought to negotiate the terms of the s106 agreement. Although negotiations are nearly complete, it has not proved possible to conclude them within the time frame set. It should be stressed that the delay in completing negotiations rest primarily on the side of the Council (including complications resulting from local government re-organisation), rather than with the developers, who remain keen to progress the proposal.
- 2.6 It is hoped that negotiations can be finally agreed, and the decision notice issued, within a period of five months, bearing in mind that there will be five different firms of solicitors considering the s106.

3. Options for consideration:

- 3.1 Members have two options. They could either decide to extend the deadline, or not extend the deadline.

Option 1

- 3.2 The effect of not extending the deadline would be to refuse permission, on the basis that the agreement cannot be secured in time, and that without the legal agreement a number of key planning requirements would not be met.
- 3.3 However, in the event of this option being taken the applicants would be likely to appeal against the refusal to the Secretary of State. Given that the delays in securing the completion have been largely on the Local Planning Authority's side, the Authority would be at risk of costs if it was judged that refusal was unreasonable.

Option 2

- 3.4 Alternatively, it would be preferable to extend the deadline to allow the legal agreement to be completed and for the planning application to be submitted and approved. It is considered that negotiations should be completed relatively quickly, but that a period of five months should be provided in case this proves to take longer (particularly given the involvement of a number of solicitors). Therefore a period until 16th January 2010 is recommended.

APPENDIX 1 – Hindon Lane, Tisbury
Southern Area Planning Committee Report - 27th August 2009

4. Recommendation:

- 4.1 That option 2 be followed and the resolution approved on 19th March 2008 in respect of this application be varied so that the s106 agreement has to be completed before 16th January 2010, but that if no agreement is secured by this time, that delegated authority be given to the Area Development Manager to refuse for the reasons stated in the original resolution.

5. Background Papers:

- 5.1 The original report to Western Area Committee on 11th December 2008 and the minutes of that meeting (which were amended at the meeting on 22nd January).

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Schedule Of Planning Applications For Consideration

In The following Order:

Part 1) Applications Recommended For Refusal

Part 2) Applications Recommended for Approval

Part 3) Applications For The Observations of the Area Committee

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

ABBREVIATIONS USED THROUGHOUT THE TEXT

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

LIST OF PLANNING APPLICATIONS TO BE SUBMITTED BEFORE THE FOLLOWING
COMMITTEE
WESTERN AREA 11TH DECEMBER 2008

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

Item Page	Application No Officer	Parish/Ward Recommendation Ward Councillors
1	S/2008/0779	TISBURY
P 3 -45	Mr O Marigold	APPROVE SUBJECT TO S106
SV 11:50hrs	MR DAVID LOHFINK LAND OFF HINDON LANE TISBURY WILTS MIXED USE DEVELOPMENT OF LAND TO COMPROMISE AROUND 90 DWELLINGS AND 3800 SQUARE METRES OF B1 BUSINESS FLOORSFACE (INCLUDING ASSOCIATED HIGHWAY INFRASTRUCTURE) AND LANDSCAPING.	TISBURY & FOVANT WARD COUNCILLOR BEATTIE MRS GREEN
2	S/2008/1590	MERE
P 47-51	Charlie Bruce-White	APPROVED WITH CONDITIONS
SV 11.00hrs	LIPSCOMBE DEVELOPMENTS LIMITED THE BOARDROOM HOUSE THE SQUARE MERE WILTS BA12 6DL CARRY OUT ALTERATIONS AND EXTENSION AND CONVERSION OF BUILDING TO 5 FLATS AND A MAISONETTE.	WESTERN & MERE WARD COUNCILLOR JEANS MRS SPENCER
3	S/2008/1591	MERE
P 52-55	Charlie Bruce-White	APPROVED WITH CONDITIONS
SV 11.00hrs	LIPSCOMBE DEVELOPMENTS LIMITED THE BOARDROOM HOUSE THE SQUARE MERE WILTS BA12 6DL CARRY OUT ALTERATIONS AND EXTENSION AND CONVERSION OF BUILDING TO 5 FLATS AND A MAISONETTE.	WESTERN & MERE WARD COUNCILLOR JEANS MRS SPENCER

Part 2

Applications recommended for Approval

1

Application Number:	S/2008/0779		
Applicant/ Agent:	MR DAVID LOHFINK		
Location:	LAND OFF HINDON LANE TISBURY SALISBURY SP3 6PU		
Proposal:	MIXED USE DEVELOPMENT OF LAND TO COMPRISE AROUND 90 DWELLINGS AND 3800 SQUARE METRES OF B1 BUSINESS FLOORSPACE (INCLUDING ASSOCIATED HIGHWAY INFRASTRUCTURE) AND LANDSCAPING		
Parish/ Ward	TISBURY		
Conservation Area:	TISBURY	LB Grade:	
Date Valid:	22 April 2008	Expiry Date	22 July 2008
Case Officer:	Mr O Marigold	Contact Number:	01722 434293

REASON FOR REPORT TO MEMBERS

Given the controversial nature of the application, it is considered that the application should be heard at Western Area Committee.

The application was due to be considered at November's meeting of the Western Area Committee. However, officers took the decision to defer consideration until the December meeting to allow for further consideration of additional correspondence received, particularly those from the AONB group and Natural England, and in light of further discussions about access to the Sports Centre through this site.

SITE AND ITS SURROUNDINGS

The site consists of around 4.1ha of land off Hindon Lane in Tisbury. It is located on the north western side of the village between Tisbury School (the former Nadder Middle School), and Hindon Lane.

The land is north east facing and falls from about 135m above Ordinance Datum on the southern boundary (adjoining the school) to about 125m above Ordinance Datum at the northern part of the site (next to Hindon Lane). There are two public rights of way running close to or on the site – one from Hindon Lane to Weaveland Road, and the other a bridleway to the south of the site.

The site forms two 'parcels' of land. One parcel (identified as 'A' by the applicants) is a central grassland field enclosed by hedgerows along the eastern and western boundaries, with the northern boundary abutting the gardens of dwellings along Hindon Lane. The southern boundary abuts the grounds of Tisbury School.

The other parcel ('B') is currently used for the storing of vehicles (cars and lorries), and is served by an access track from Hindon Lane. On its western side the site extends up to the boundary of the garden of 'The Gables'. The remaining part of this parcel is the corner of a much larger field, which extends westwards to Weaveland Farm.

In planning terms the whole site (other than a relatively small strip on the edge of the site, to be used for landscaping) is designated in the current local plan (policies H14 and E14A) as an area allocated for housing and employment uses, to be released during the lifetime of the current Local Plan.

The site also lies within the Cranborne Chase and West Wiltshire Downs Area of Outstanding Natural Beauty, an area statutorily designated as being of the highest status of protection in relation to landscape and natural beauty.

THE PROPOSAL

The application is for outline planning permission (including access) for the erection of a mixed use development comprising of 'around' 90 dwellings and 3,800 m² of B1 business floorspace including associated highway infrastructure. The highway infrastructure includes the provision of a roundabout at the junction of Hindon Lane and the proposed access road into the development.

Only the principle of development, together with 'access', is being considered at this stage. Should outline planning permission be granted, a further application would then need to be made for the layout, scale, appearance and landscaping of the site.

Never-the-less the applicants have submitted a layout (including the position of individual dwellings) which, although only indicative at this stage, is intended to be a clear indication of the layout and form that development will take on this site. This information helps to establish whether the site can be acceptably developed to the extent proposed.

In establishing the extent of consideration, regard has been given to the advice in Government Circular 01/2006. This advises that when considering 'access' (as this application does) this covers "...accessibility to and within the site for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network."

Conversely, 'layout' (a matter which is not part of this application) includes "...the way in which buildings, routes and open spaces are provided within the development and their relationship to buildings and spaces outside the development".

The two matters have a degree of overlap but the developer made clear that they do not intend for the internal access roads to be fixed through this application, and that this should be left to a future reserved matters application. In the event of outline permission being granted, this will be made clear as part of the conditions imposed.

PLANNING HISTORY

There have been no recent planning applications of direct relevance to this application. However, there are site-specific Local Plan policies that relate to this site, and a relatively-recently adopted Development Brief specifically for this development.

CONSULTATIONS

Wiltshire County Council (Highway Authority)

I can confirm that the additional information received via Lawrence Rae Associates in their letter dated 20th August 2008 largely clarifies the position for this Authority. On the basis that the internal layout is only illustrative, I am prepared to offer a recommendation of no highway objection subject to the developer entering into a Section 106 Agreement for two travel plans, one for the residential element of the scheme and the second for the business uses element. I will also recommend conditions as below and confirm the following matters:

- The applicant has submitted a further drawing no. 2424/HA/1, showing a scheme for the construction of a new mini-roundabout to serve the site. The scheme also includes additional footways on Hindon Lane and two bus stops with bus shelters (although not shown diagrammatically), and the re-positioning of the existing 30mph limit with additional features and markings to highlight the speed limit change. The scheme is largely in conformity with the requirements for access laid down by this Authority, but must be subject to full vetting via the further submission of detail drawings: as the application is at outline stage, I am content to offer a Grampian style condition for these

works to be further approved and constructed before any other development work is commenced within the development site.

- For clarity, the detail design of the mini-roundabout will be altered to reflect design changes which this Authority will require, so further detail drawings must be submitted at reserved matters planning stage. As stated in the Lawrence Rae letter, further changes may be required following a stage 2 safety audit prior to final approval by this Authority and the works will be subject to a Section 278 Agreement with this Authority.
- The revised detail of the emergency access (shown on drawing 2424/HA/1) satisfies my requirement to provide an access which will be available for public use by cyclists and pedestrians only but, in an emergency, can also be used by a fire appliance. The route within the site must be made available for public use and therefore the design of the internal roads and footpaths/cycleways must accord with Manual for Streets and WCC requirements.
- I am satisfied that the additional traffic/census data shows there is sufficient correlation between this site and the site in Teignmouth to accept the traffic analysis as submitted. In fact the correlation shows both locations are likely to have very similar traffic patterns and the additional data is welcomed and appreciated.
- I note the comments by CG Fry that only 6 of the 8 properties in Hindon Lane will be provided with an opportunity for rear access as a goodwill gesture. This is welcomed and it was my understanding that this would be provided when full detail design is further submitted at reserved matters stage - I understand the technical difficulty in providing access to all 8 properties but the potential improvement to parking arrangements along Hindon Lane is welcomed. I would be grateful if this element of the scheme could be controlled by condition if appropriate or is it more appropriate to identify and deal at the reserved matters stage? The illustrative scheme did not take full account of this arrangement. I confirm that I am satisfied that access would be provided via the new site access.
- Further work has been undertaken by Lawrence Rae Associates on the travel plan for both site uses which has been welcomed by this Authority. However, there are three elements to the draft TP's which this Authority would wish to included and which will involve a financial contribution or commitment: a payment for WCC monitoring costs should be sought, annual season tickets for rail users to and from Salisbury for one year should be included and a contribution to cycle parking facilities within Tisbury should be sought. Therefore, The TP's should be included in the negotiation of the Section 106.

Wiltshire County Council (Archaeology)

Within the area of the proposal we have recorded a series of worked flints including 13 scrapers dating from the Neolithic period 4000 2300BC. To the west of the Hindon Lane a series of earthworks have been identified which probably represent the remains of medieval settlement activity.

Given the presence of Neolithic finds on the site and the size of the proposal, I consider that there is the potential to uncover further archaeological finds or sites in the area. In order to assess the impact of development on archaeology, I recommend that an archaeological evaluation is carried out in accordance with PPG16 prior to the determining of the application.

In this case I would expect to see the evaluation comprising several stages as follows:

1. A field walking survey. This will identify the number and concentrations of finds across the area and give an indication of any underlying features;
2. Geophysical survey. This will aid the determination of the potential for below ground features of archaeology to survive;
3. Evaluation by trial trenching. Trenching will provide a detailed understanding of the below ground archaeology and the impact of the development. The sample size and

location of the trenching will be dependent upon the outcome of the geophysical survey;

All the above investigations will need to be part of a Written Scheme of Investigation approved by this authority and followed by a report on the completion of the works.

If significant archaeological features are identified on the site it may be necessary for me to recommend to you that a modification to the layout of the site is required or that further excavation will need to be specified by an appropriate planning condition to be carried out prior to development.

SDC Forward Planning

Site History / description - The majority of the site is predominantly rough grassland. The northern part of the site is currently used for storing vehicles. Part of the allocation site, has been in effect removed from this development as the landowner constructed an individual property 'The Swedish House'.

Key Policies - SDLP policies (as detailed within the adopted development brief) – G1, G2, G5, G6, G9, D1, D6, D7, D8, H14, H25, E14A, TR1, TR12, TR11, TR13, TR14, R2, R4, R17, C4.

Adopted Hindon Lane, Tisbury development Brief (adopted as SPD)

The site is allocated within the adopted local plan under policies H14 and E14A. Policy H14 allocates the site for a mixed use development including, housing, employment, link road and other off site highway improvements, recreational open space and a swimming pool. A mix of housing types and sizes will be sought, including a proportion of affordable housing in accordance with the identified need in Tisbury.

The policy also phases the site whereby the highway improvements including traffic calming on Hindon Lane will be implemented before the housing development commences. In addition no more than half the houses are to be constructed until an agreed proportion of employment buildings have been constructed, the swimming pool site made available and the link road constructed. Planning obligations will also be requested on the site. Policy E14A allocates approximately 1.4ha of employment development.

The proposal is for an outline application for around 90 dwellings and 3800 sqm of B1 business floorspace. The site benefits from a development brief which has been adopted as a Supplementary Planning Document. This development brief is in conformity with the local plan. I shall now assess the outline application against this brief.

Overall there are several areas where the applicant appears to have adhered to the development brief. These areas include layout, which appears to have been only slightly amended, landscaping, ecology, building height, detailing and special features, accessibility, road access, contaminated land, drainage, car and cycle parking, movement, space hierarchy, open space, density, security, materials and public realm and public art. However there are some areas that need looking at in more detail.

Housing Numbers - With respect to housing numbers the site is providing for 90 dwellings, slightly more than the local plan policy, however it should be noted that this site falls within phase 2 of the local plan, namely after 2006. The plan period for the Regional Spatial Strategy (currently in draft format) ranges from 2006 to 2026. The total number of houses provided on this site can therefore be deducted from the total number suggested for the Nadder Valley community area within the Core Strategy Preferred Options.

When determining this application some consideration should be given as to whether an increased number of dwellings would be acceptable within the reserved matters / full application, to the community, to reduce the number that will be required to be delivered on other sites in the Nadder Valley area. However this would increase the density.

Affordable Housing - With respect to affordable housing provision it is confirmed that this is in line with pre-applications negotiations. The developer is proposing 40% affordable housing on 84 dwellings using a split of 40% shared ownership and 60% affordable rent. This was

confirmed by the head of strategic housing at the time. Of the further 6 dwellings, these are to be provided on the land that was initially reserved for a new swimming pool. However both the district council and parish council acknowledge that this facility would be expensive to construct and run and therefore through negotiation with the parish council they have decided that in lieu of this they would prefer the construction of further dwellings for which the Parish council will then receive a commuted sum of £400,000 for indoor recreation use. This was agreed in negotiation with the parish council. These dwellings do not count towards the affordable housing provision for this reason. Otherwise the sum that would be available to the parish would be substantially reduced.

Housing mix - For the reserved matters of full application housing mix needs to be further negotiated to ensure the correct mix for the Nadder Valley area is achieved.

As such the latest Housing Needs Study 2006 identifies the housing mix that should be delivered for both market housing and affordable housing. Within the Tisbury or Nadder Valley community area, the following splits have been identified as needed:

Market Housing:

1 bed 4%
2 bed 10%
3 bed 47%
4+ bed 39%

Affordable housing

1 Bed 36%
2 Bed 28%
3+ Bed 36%

Of the Affordable rent 50% should be 1 bed and 50% should be 2 bed. Of the shared ownership 30% should be 1 bed, 16% should be 2 bed and 56% should be 3+ bed.

These are the splits that should be used in the Reserved Matters application.

Employment land - With respect to the employment opportunities the area proposed in this outline application, although less than the allocation, appear to be the same as that that was acceptable within the development brief and is therefore in accordance with this. This area was felt to be acceptable to the community at the time of consultation on the development brief. The employment is for small scale business provision which is in accordance with the Employment Land Review and the use class of B1 should ensure that more jobs are provided than could be with another use class on the site. Due to the small scale nature of business units these should integrate into the housing development.

Highways - With respect to highways it should be ensured that the Highways authority are happy with the changes proposed.

Sustainable development - Little mention is made of sustainability features of the proposed development including energy conservation. Although I believe this has now been confirmed through further correspondence with the application. The development brief requires all homes to be constructed to Ecohomes 'very good' standard. This should now be translated into the Code for Sustainable Homes and it has been confirmed that buildings will be constructed to a minimum of Code Level 3. This equates to the Ecohomes 'very good' standard. It should be ensured that both the housing and employment buildings are built to these standards. To note the commitment made within the development brief is to use materials that have a low ecological impact, high levels of insulation and draught proofing and double glazing, bin stores to facilitate recycling, solar access, water conservation, energy efficient white goods, low energy lighting, efficient heating and possible renewable energy. It needs to be ensured that any reserved matters application includes all of these aspects.

Accessibility - In addition the development brief, asks for 5 % of dwellings to be constructed to Lifetime Homes Standards. Although the design and access statement does suggest that a 'the small scale form of the units proposed will ensure access for the disabled there is no clarification of what this really means and whether this goes beyond Part M of the building regulations. The

provision of Lifetime Homes should be ensured especially as there is a shortage of accessible accommodation within the district, especially wheelchair accommodation to meet the needs of those with disabilities and the elderly.

Phasing - Phasing of the site is important to ensure the delivery of employment land and highway improvements. It was for this reason that phasing was written into policy H14 itself. The development brief states that 'highway improvements including traffic calming on Hindon Lane will be implemented before housing development commences' and that 'no more than 50% of houses are to be constructed until 50% of the employment buildings have been constructed and the swimming pool or other community uses sites made available. The highways land within the draft section 106 agreement appears to be phased correctly and a proposed phasing of affordable housing provision appears to be acceptable. However, the phasing of the employment land in the draft agreement does not appear to be in line with the development brief or policy H14. The draft section 106 agreement states that 'Not to allow occupation of more than 60 Dwellings until the first and second tranche of that part of Land to be used under Class B1 is constructed and available for use. And: Not to allow occupation of more than 80 Dwellings until the third tranche of that part of the Land to be used under Class B1 is constructed and available for use. It is suggested that this could be amended so that some of the employment land is available for use earlier in the development period.

Section 106 contributions - The draft section 106 agreements appears to deal with all other section 106 contributions, this includes the provision of R2, R4, education, highways, affordable housing and public art.

Recommendation of Forward Planning Section:

In accordance with Section 54A of the Town and County Planning Act 1990 and Section 38 (6) of the Planning and Compulsory Purchase Act 2004 planning permission can be granted subject to the following:

Highways are satisfactory with the scheme

Phasing through the section 106 agreement is confirmed

The provision of more accessible accommodation is confirmed

Construction to at least Code for Sustainable homes level 3 is confirmed

Construction of the employment land to an equally high efficiency level is confirmed

Wiltshire County Council (Education):

Based on the figures you have supplied, we do not have a case for a primary places contribution at this time. Tisbury St John's Primary has a capacity of 140 places and forecasts show that 50 will be available. The proposed development would generate a need for 25, which can be accommodated within the existing capacity of the school.

However, we can only give an indicative response to an outline application, as the final details of housing numbers/mix are not available at this stage and could be significantly different than that applied for at full planning/reserved matters. We would therefore carry out a further assessment at full planning/reserved matters, before confirming whether or not any contribution would be applicable. (The position is then checked again at the point of finalising the S106). Our assessment takes account not only of the capacity and pupil numbers/forecasts of the designated area school, but also of the impact upon availability of places of other housing development that comes forward within that designated area. Pupil number forecasts are due to be updated by the end of this year. Therefore, our position may change if there are:

- substantial increases in pupil number forecasts identified at the forthcoming update
- a reduction in the school's capacity (relatively unlikely)
- other significant housing developments come forward and are approved ahead of this application
- the number and mix of the proposed units varies materially from that quoted in the outline application
- All these except the last one increase in likelihood if there is a significant time lapse between outline planning and the finalisation of the housing numbers/mix.

These are therefore the caveats to our response. Having said that, SDC is better placed than Western Area Committee 11/12/2008

us to know whether or not other housing proposals are going to arise in this area, and unless this is the case, and /or a substantial rise in pupil numbers is forecast in this year's update,

then Tisbury is not one of our identified pressure points for primary school places provision in the county.

SDC Housing

Affordable Housing % / tenure splits

The tenure split of 60% rent 40% shared ownership was agreed some time ago, based on the affordable housing provision being 40% of the total number of dwellings. Housing initially considered that if the 'community land' is now going to be used for housing, that the affordable housing provision should represent 40% of the total units on the whole site (including those additional 6 units which would be built on that particular part of the site). However, the housing section now accepts the agreement that was made between the Parish Council, officers and the developer that the affordable housing percentage should exclude these dwellings.

Other comments regarding the draft S106

The comments from the Parish Council in terms of the local connection criteria have been noted and it is agreed that we should include reference to West Tisbury. Also have no objection to the suggestion to cascade out to adjoining parishes before cascading out to the Salisbury District as a whole. It is also worth mentioning on the S106 that applicants should be registered on the Housing Register.

It is suggested that there should be a 'cascade' clause in the S106, in terms of the tenure split. Whilst we have been more flexible than usual in agreeing 40% shared ownership on the site rather than our standard 25%, we must take account of the current market conditions which are causing some issues with applicants being able to obtain mortgages for shared ownership schemes, particularly in rural areas where the 80% staircasing restriction applies. Another Registered Social Landlord (RSL) is currently experiencing difficulties selling 2 shared ownership houses in Tisbury for that reason. Obviously the completion of any dwellings on this site would be some way off yet, and hopefully the lending situation will have improved by then. However, it is believed that a cascade clause would be beneficial to all parties concerned to cover any future problems with saleability of shared ownership, when the developer could revert to affordable rented accommodation as a fallback.

If possible a clause should be inserted in the S106 to allow SDC to approve the RSL involved in the scheme. Whilst we cannot restrict any development to those RSL's who form part of our preferred partnership, we would prefer to have some control over which RSL carries out any development in our area, to ensure that they meet certain criteria (ie. have the necessary resources to provide an adequate management facility to the social housing provided on the site).

The RSL mentioned in the S106 has not made contact with the housing section and it would be advisable at this stage for them to contact us if they do intend on working with the developer on this scheme.

SDC Economic Development

The E14A allocation provides for 1.4ha of employment space. I understand though that this outline application proposes just 3800sqm of B1 developed floorspace as part of the mixed use site.

Some rough number-crunching suggests that 3800sqm of built floorspace for B1 use would require about 0.54ha of land (based on a development density of 70% for B1 use, this allows for multiple storeys etc). This is clearly considerably less than the original 1.4ha allocation.

In the whole Tisbury Community Area there is approx 2.41ha of dedicated employment sites (see Employment Land Review, page 87). This comprises the 1.4ha E14A allocation, plus - Station Works 3.8ha; Station Yard 0.31ha; Old Dairy, Fonthill Bishop 0.26ha; and Manor Farm,

Chilmark 0.44ha. The 1.4ha is therefore a significant portion of this. However, in terms of employment in the Tisbury CA, the majority of businesses (74%) are not located at dedicated employment sites and are found at other ad hoc locations.

I see that the parish council (28 May 2008 response) have concerns about the demand for employment space on the site, although they don't appear to have commented on the extent of employment land provision as compared to the local plan allocation.

Not sure how Forward Planning will respond to what appears to be quite a significant decrease. I am also not sure about the current status of the Station Works site and how this may influence things.

If the development is phased, can provision be made for an agreed quantity of employment land with a 2nd phase based on assessment of demand/take-up of initial development? There will always be some demand for the right space at the right price/right place and it is extremely hard to speculatively forecast, particularly as there is no purpose built modern employment space in the area to compare with.

Wiltshire & Swindon Biological Records Centre

The Wiltshire & Swindon Biological Records Centre screens all planning applications received by your Council for potential impacts on important wildlife sites and species. In carrying out the planning screen records for badgers and dormice were found at this site.

Dormice are fully protected by the Wildlife and Countryside Act 1981 as amended and the Habitats Regulations Planning Policy Statement PPS 9 paragraph 16 states that planning authorities should ensure that species which receive statutory protection under a range of legislative provisions should be protected from the adverse effect of development where appropriate by using planning conditions or obligations.

Badgers are fully protected by the Protection of Badgers Act 1992 Planning Policy Statement PPS 9 paragraph 16 states that planning authorities should ensure that species which receive statutory protection under a range of legislative provisions should be protected from the adverse effect of development where appropriate by using planning conditions or obligations.

The Government Circular 'Biodiversity and Geological Conservation', paragraph 99, states that the presence of protected species and how they would be affected by the proposal should be established before planning permission is granted.

Wiltshire Fire and Rescue Authority

Having studied the proposals the following comments relating to necessary and appropriate fire safety measures are forwarded to you for consideration and inclusion within the proposed development.

Fire Appliance Firefighting Access

Consideration is to be given to ensure that access to the site for the purpose of firefighting is adequate for the size of the development and the nature of the proposed use.

Reference should be sought from guidance given in Building Regulation Approved Document B B5 Access and facilities for the Fire Service Water supplies for firefighting.

Adequate consultation is to be undertaken between the Fire Authority and the developer to ensure that the site is provided with adequate water supplies for use by the fire service in the event of an outbreak of fire. Such arrangements may include a water supply infrastructure suitable siting of hydrants and or access to appropriate open water. Consideration should be given to the National Guidance Document on the Provision of Water for firefighting and specific advice of the Fire Authority on location of fire hydrants

Domestic Sprinkler Protection

- A core objective of the Wiltshire Fire Rescue Service is to support and encourage an
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increase in the provision of residential sprinklers in domestic properties in Wiltshire and Swindon.

- As you may well be aware residential sprinklers are not new. Though a British invention, the development has been pioneered in the United States, Australia and New Zealand to name but three. In these countries there are whole communities which enjoy such installations and can boast a zero fatality rate from domestic fires.
- I would like to present to you these following short points for your consideration:
- Residential sprinklers work from the standard water mains. Usually a house does require a 32mm connection rather than the industry standard 25mm;
- They are surprisingly inexpensive to install particularly in a new building;
- They do not activate by accident causing unwanted damage;
- Only activated sprinkler heads will operate. Not the whole system as is often believed;
- They are not unsightly as they sit flush to the ceiling behind a flat cover;
- They cause less water damage in a fire than normal firefighting operations plus drastically reduce fire and smoke damage.

If you would like more information on these systems then please contact this Authority

The above mentioned recommendations are made without prejudice to the requirements or other standards proposed by the Planning or Building Regulations Authority.

Wessex Water

Our engineers comments are as follows:

Foul Drainage

- There is a public foul sewer in the vicinity of the site.
- The sewerage system has adequate capacity to accept the proposed foul flows from the development.

Surface Water Drainage

- There are no surface water sewers in the vicinity of the site.
- It is noted that soakaways are proposed to serve this development.

Sewage Treatment

- There is sewage treatment capacity available.
- There is adequate capacity at the terminal pumping station.

Water Supply

- Off-site reinforcement in the form of a link main to the existing water supply network is required.
- Full details, potential options and costs will be available once a Section 41 application has been made to Wessex Water.

They have also responded directly to a Parish Councillor saying that the existing public foul sewer from the proposed point of connection in Hindon Lane to the sewage treatment works has capacity to accommodate the additional foul flows.

Tisbury sewage treatment works has capacity to accommodate the additional flows. Also in our

current investment plan, 2005–2010, there is provision for substantial improvement works at Tisbury sewage treatment works. Work is programmed to start in January 2009 with completion due in December 2009.

AONB Group

I commented on the consultation document relating to the development brief on the 26th September 2006. From studying the application documents it does not appear that much notice has been taken of the comments that were made then.

For the record it is appropriate to point out that the whole of Tisbury and the surrounding areas are within the AONB The Cranborne Chase and West Wiltshire Downs AONB has been established under the 1949 National Parks and Access to the Countryside Act to conserve the outstanding natural beauty of this area which straddles four counties and seven district councils. It is clear from the Act subsequent government sponsored reports and the Countryside and Rights of Way Act 2000 that natural beauty includes wildlife scientific and cultural heritage. It is also recognised that in relation to their landscape characteristics and quality. National Parks and Areas of Outstanding Natural Beauty are equally important aspects of the nation's heritage and environmental capital. Although it is often noted that AONBs and their management plans should take account of the economic and social wellbeing of communities it should also be noted that where there is a conflict or potential conflict conservation of natural beauty should take priority.

The location of the village is predominantly on the north facing slope of a valley that runs towards the River Nadder. However with another valley to the east and a shallower one to the west the actual site is above the main village on what appears to be a ridge which eventually slopes down into the main valley. It is within the Vale of Wardour landscape character area. Further details about the features and characteristics are in the Landscape Character Assessment 2003 which is I believe available in your office and can also be accessed from our website.

Despite having submitted detailed comments on the development brief to the District Council the developers have not made any contact with the AONB Team in preparing their application. My earlier correspondence made it clear that the AONB is a national designation of national significance yet nowhere is that national importance even mentioned in the application documents. It would appear therefore that neither the developer nor any of the consultants working for the developer have grasped the significance of the AONB designation.

As the AONB is a national matter it is arguably the major policy issue to be considered in any proposal for development. The emerging Regional Spatial Strategy recognises the importance of AONBs particularly policies ENV1 and ENV3. The key features of this AONB are readily accessible on the AONB Team's website.

As you know, a number of specialist studies have been commissioned by the AONB and these are available on our website. The one that is of particular relevance to the current application is the landscape sensitivity study. This shows the Tisbury area to be in an area of moderate to high landscape sensitivity which is the fourth most sensitive category on a scale of five. Another particularly relevant document is the Landscape Character Assessment for the AONB and again there seems to be little regard for the information in that study or the findings of it.

In my previous comments I mentioned that the analysis of the older buildings in Tisbury to inform the design process was a positive proposal. What does not seem to have been done is to undertake an assessment of the proportion of the various types of buildings nor has there been any systematic analysis of the locations of those buildings within the structure of the Nadder Valley and the settlement of Tisbury. It is however fairly obvious that Tisbury is a valley side settlement. The longer established parts are neither right along the valley bottom nor on the higher ridges. This current proposal is therefore significantly out of character in being proposed on high ground above the general level of the established areas of the village.

The Historic Landscape Characterisation currently nearing completion indicates that the fields within which the new houses are proposed are 18th and 19th century enclosure yet this feature seems to pass unrecognised. It would be entirely appropriate to maintain these boundaries and hence the historic structure in any development layout.

Whilst I recognise from the comments made in the Design and Access Statement that buildings will not be as high as originally contemplated, I notice that the layout plans show a very substantial number of tall buildings with high rooflines to accommodate a third storey within the roof space. This is likely to create significant visual intrusion in the AONB. Such a number of high buildings will not only be visible from a number of aspects but will also serve to accentuate the existence of the development on high ground. This seems totally contrary to the accepted practise of aiding integration into a landscape by reducing the height of buildings on higher ground.

The site in question is adjacent to the Conservation Area so the Consultation Draft of the Tisbury Conservation Area Appraisal is relevant particularly if the proposals to add two parts of Hindon Lane are accepted. The draft policies recommendations for new small scale buildings in the Conservation Area or adjacent to it state that it is important to consider specifically surrounding skyline, rooflines and landmarks these comments must therefore be of even greater importance to a large scale development. This document from SDC seems to support the AONB s comments on the excessive heights of the proposed buildings.

The proposal seems to completely overlook the characteristics of the AONB which are the very rural nature and the tranquillity of the AONB. Development on Hindon Lane will quite obviously increase the traffic along that route and further northward through the historic landscapes of the Fonthill area. That additional traffic will be prejudicial to the tranquillity and rural character of the AONB.

In reference to the north west approach to Tisbury along Hindon Lane the Conservation Area Appraisal states that It forms an important and well defined approach from the north helped by the presence of long stone boundary walls but has a distinct informal character. This would be adversely affected by the heavy handed approach indicated in the plans eg the roundabout and general changes to the highway.

The draft Conservation Area Appraisal comments on the recent developments of indifferent quality which have meant that consideration has to be given to boundary changes to the Conservation Area. The current development proposal could be an opportunity to buck this trend but unfortunately neither the design quality nor the planned formal structure of the proposed housing seem to be in keeping with the informal piecemeal layout of adjacent areas such as the quarry.

As you know from responses to other planning applications the AONB is particularly concerned about the problems of light pollution and the loss of dark night skies. A position statement by the AONB is available on the AONB website It is however noticeable that the issue of lighting and street lighting does not appear to have been addressed in the application.

Clearly the proposed development will have a significant impact on the landscape and as you know the prime purpose of the AONB designation is to preserve and enhance natural beauty. The application and the proposals within it do not do that. It would seem therefore that the development is contrary to policy C4 of the District Local Plan. With regard to sustainable development there appears to be little in the application to indicate that individual buildings will use solar power or that there will be any group combined heat and power schemes.

I hope these comments are helpful to you and I would, of course, be happy to assist you further. I would stress however the AONB is a national designation recognising landscapes of national importance and development of this scale in an AONB is clearly a national policy issue Furthermore 14 days is a very short time to digest the large amount of information that the developer and their team have spent many months putting together.

Whilst it may appear to be a contribution to sustainability the provision of planning application documents on CD is in reality not so. It is not at all user friendly when it comes to comparing plans with statements and documents or different parts of plans or moving quickly from one document to another. To do this consultees need to make hard copies and it really should not be for consultees to have to cover the cost of carrying out such printing in addition to providing their time and expertise to contribute to the planning processes. The developer applicant should therefore provide sufficient hard copies for consultees to consider.

Following publication of the earlier report to WAC in November, the AONB group made the following additional comments:

As the site is in the AONB I believe you / your Council would be justified in taking a more rigorous approach to the proposal. Indeed, PPS7 supports that, particularly in Key Principle 1 (vi) and para 21.

Paragraph 22 goes so far as to say, 'Major developments should not take place in these designated areas [AONBs and NPs], except in exceptional circumstances'. It would seem that the 'exceptional circumstances' have not been demonstrated. That paragraph of PPS7 further states that the most rigorous examination of the proposals should include considering development outside the designated area, and also the detrimental effects of the proposals on the environment and landscape. From my rather swift reading of your report it appears that the landscape impacts have not been analysed, nor the extent to which they could be moderated.

Paragraph 12 of PPS7 emphasises the duty of Local Planning Authorities to ensure development respects and, where possible, enhances historic, architectural, and local countryside character. Paragraph 23 refers to development in designated areas being carried out to high environmental standards through the application of appropriate conditions. I will return to this point.

PPS7 also gives guidance on housing in rural areas, focussing on local needs and affordable housing [paragraphs 8 and 9]. Whilst the AONB would support the proposed proportion of affordable housing [40%] the local need for 90 dwellings seems less justifiable.

In this case I am particularly concerned that that the development is on a rising ridge where modern buildings, high structures, and contemporary materials will be obvious, will stand out, and will interrupt longer views. Other recent development in Tisbury does not fill me with confidence that designs and materials will integrate with the established character of the settlement. Traditionally buildings on higher ground have been built lower, to withstand the effects of exposure, and this helps them to blend into the landform. The proposals appear to be placing quite tall and substantial houses and dwellings on high ground, thereby maximising rather than minimising their physical and visual intrusion, and arguing with the flow of the landscape. Very close attention will be needed to height, form, and materials to achieve any form of integration into the landscape, and I remain to be convinced that there is sufficient evidence that this can be achieved. I believe that your Council should, in an AONB, have that demonstrated beyond any reasonable doubt prior to considering granting planning permission.

Furthermore, landscape screening and mitigation should be demonstrated to be achievable before an outline permission is granted. A LPA can require a full and detailed planning application in an AONB, although that might be seen as rather onerous in this case.

Nevertheless, one of the achievements of the AONB going to public inquiry about the potential implementation of a site for 700 houses east of Shaftesbury just outside this AONB was the acceptance by the Inspector, and the Secretary of State, that some 60 detailed planning conditions were appropriate on an outline permission to ensure that the various matters relating to landscape integration, SUDS, views to the AONB, orientation of buildings to minimise visual intrusion, limitations on building heights, lighting and control of light pollution, and so on, were integral to the approval. I see a clear parallel with the Hindon Lane proposals, except that the case is stronger as the proposal is in the AONB. I feel you have very good grounds for addressing landscape matters, such as visual intrusion, building heights and form, screen planting and other mitigation in greater detail at this stage.

My other major concern is that the character of Hindon Lane along its whole length will be changed, both by the additional volumes of traffic and the urbanisation of it by the proposed roundabout and suggested traffic calming measures. Those matters are, in some ways, more worrying as they impact on other locations away from the development itself and thereby extend the impacts of change over a wider area. The additional traffic will impact adversely on the tranquillity of this AONB, a key characteristic of Cranborne Chase & West Wiltshire Downs.

As Tisbury is within the AONB I would suggest that SDC are entitled to require that the effective integration and mitigation of the proposed development at Hindon Lane be demonstrated in full and in advance if it is minded to approve a significant development there.

I am also concerned that there do not, as your report stands, appear to be any requirements to formulate and put in place landscape treatments, screening, enhancements, or features prior to development commencing. I do not even see a condition requiring landscape works to be completed before dwellings are occupied. Both approaches are, as I am sure you appreciate, recognised mechanisms for ensuring that a construction site does not remain exposed to view and an eyesore, and that landscape works are given the attention they deserve.

Natural England

Based on the information provided Natural England have no objection to the proposed development subject to the inclusion of our recommended conditions and the proposal being carried out in strict accordance with the details of the application. The reason for this view is that we consider that the proposal will not have a significant effect on any protected species.

We advise that the mitigation proposals are assured through a planning condition using all the recommendations set out within the 'Discussion and Recommendations' sections within both the Extended Phase 1 and Dormouse Surveys, both undertaken by Michael Woods Associates in September and November 2006 respectively.

Please note that a Natural England European Protected Species Licence will be required before any of the works take place.

The protection afforded these species is explained in Part IV and Annex A of ODPM Circular 06/2005 to PPS9 'Biodiversity and Geological Conservation - Statutory Obligations and their Impact within the Planning System'. Paragraph 98 of the Circular states that the presence of a protected species is a material consideration when a planning authority is considering a development proposal that, if carried out, would be likely to result in harm to the species or its habitat.

The applicants should be Informed that planning permission, if granted, does not absolve them from complying with the relevant law including obtaining and complying with the terms and conditions of any licences required as described In Part IV B of Circular 06/2005.

Following publication of the earlier report to WAC in November, Natural England contacted officers to clarify that although Natural England's remit now includes landscape considerations, Natural England's comments above only reflect consideration of protected species. They do not want their comments to be taken to support the application in terms of landscape, though they are not objecting on these grounds either.

They comment that landscape impact and the comments of the AONB group should be given careful consideration.

Environment Agency

We have no objection to the above proposal subject to the inclusion of conditions detailed below:

Flood Risk

A Flood Risk Assessment (FRA) by Laurence Rae Associates Ltd (Report No 2651 FRA 3) dated April 2008 has been submitted in support of the proposed development We rely on the accuracy and completeness of the FRA in undertaking our view and can take no responsibility for incorrect data or interpretation made by the authors. The responsibility for the checking of the design calculations and details remains with the developer or agents acting on his behalf.

Condition:

No development approved by this permission shall be commenced until details of a scheme for Western Area Committee 11/12/2008

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the provision of surface water run off limitation incorporating sustainable drainage principles (SUDS) in accordance with the Flood Risk Assessment Laurence Rae Associates Ltd Report No 2651 FRA 3 dated April 2008 has been submitted to and approved in writing by the local

planning authority. The scheme shall be completed in accordance with the approved programme and details.

Reason:

To prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal.

Informative:

It is essential the developer enters into a suitable legal agreement that provides for the satisfactory long term operation and maintenance of the surface water drainage scheme.

Condition:

No development approved by this permission shall be commenced until details of existing and proposed ground levels including overland flow routes and exceedence overflow protection in accordance with the Flood Risk Assessment Laurence Rae Associates Ltd Report No 2651 FRA 3 dated April 2008 and finished floor levels has been submitted to and approved in writing by the local planning authority. The scheme shall be completed in accordance with the approved programme and details.

Reason:

To minimise flood risk to the development, neighbouring property and Hindon Lane.

Informative:

There must be no interruption to the surface water drainage system of the surrounding land as a result of the operations on the site. Provisions must be made to ensure that all existing drainage systems continue to operate effectively and that owners of neighbouring land are not adversely affected.

Land Contamination

We have reviewed the Interpretative Report on the Ground Investigation submitted with the application, report number 61383 dated February 2007, and consider the investigation carried out in this area is not sufficient to determine whether contamination is present. The condition below is recommended to ensure a more thorough investigation of this area of the site.

Condition:

Prior to the commencement of development approved by this planning permission or such other date or stage in development as may be agreed in writing with the Local Planning Authority a scheme to deal with the risks associated with contamination of the site shall be submitted to and approved in writing by the local planning authority. That scheme shall include all of the following elements unless specifically excluded in writing by the Local Planning Authority:

1. A desk study identifying:

- all previous uses;
- potential contaminants associated with those uses;
- a conceptual model of the site indicating sources pathways and receptors;
- potentially unacceptable risks arising from contamination at the site.

2. A site investigation scheme based on 1 to provide information for an assessment of the risk to all receptors that may be affected including those off site;
3. The results of the site investigation and risk assessment 2 and a method statement based on those results giving full details of the remediation measures required and how they are to be undertaken;
4. A verification report on completion of the works set out in 3 confirming the remediation measures that have been undertaken in accordance with the method statement and setting out measures for maintenance further monitoring and reporting.

Any changes to these agreed elements require the express consent of the Local Planning Authority.

Reason:

The site overlies Limestone & Sandstone of Tisbury Member geology which is a Primary/Major aquifer. The site investigation carried out identifies Area 1 in the North west of the site as having a potential for contamination due to its previous uses, however the site investigation supplied has only two trial pits from this location which are shallow and do not reach the base of the made ground. Contaminant levels in samples from these trial pits are above the levels found in the other areas of the site.

Informative:

In relation to the proposed development in so far as it relates to land contamination the Environment Agency only considered issues relating to controlled waters and relevance of regulatory regimes where the Environment Agency is the enforcing authority eg waste management licensing.

Pollution prevention during construction

Safeguards should be implemented during the construction phase to minimise the risks of pollution and detrimental effects to the water interests in and around the site. Such safeguards should cover the use of plant and machinery, oils, chemicals and materials, the use and routing of heavy plant and vehicles, the location and form of work and storage areas and compounds, and the control and removal of spoil and wastes. We request that the following condition is included:

Condition:

No development approved by this permission shall be commenced until a Construction Environmental Management Plan incorporating pollution prevention measures has been submitted to and approved by the Local Planning Authority. The plan shall subsequently be implemented in accordance with the approved details and agreed timetable.

Reason:

To prevent pollution of the water environment

Water efficiency

We strongly recommend water efficiency measures be incorporated into this scheme. It would assist in conserving natural water resources and offer some contingency during times of water shortage. Please note the following condition has been supported in principle by the Planning Inspectorate.

Condition:

No development approved by this permission shall commence until a scheme for water efficiency has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the agreed details.

Reason:

In the interests of sustainable development and prudent use of natural resources.

The development should include water efficient appliances, fittings and systems in order to contribute to reduced water demand in the area. These should include, as a minimum, dual flush toilets, water butts, spray taps, low flow showers, no power showers and white goods, where installed, with the maximum water efficiency rating. Greywater recycling and rainwater harvesting should be considered. We would be happy to provide further advice when the applicant is designing the scheme.

Sustainable building and construction

We strongly recommend that the proposed development includes sustainable design and construction measures which comply with the Code for Sustainable Homes. The development should aim to achieve the highest number of stars possible preferably six. The applicant is advised to visit

<http://www.communities.gov.uk/publications/planningandbuilding/codesustainabilitystandards> for detailed advice on how to comply with the Code. It includes sections on energy and water efficiency and is compulsory for all housing from May 2008.

In a sustainable building minimal natural resources and renewables are used during construction and the efficient use of energy is achieved during subsequent use. This reduces greenhouse gas emissions and helps to limit and adapt to climate change. Running costs of the building can also be significantly reduced.

Summary

In summary we request conditions to cover the following material considerations:

- Surface water limitation
- Ground levels and finished floor levels
- Land contamination
- Pollution prevention Construction Environmental Management Plan
- Water efficiency

SDC Environmental Health

Recommend the following conditions be applied to this application:

1. Due to the proximity of parts of the site to existing residential uses no delivery of plant equipment or materials demolition or construction work or other building activity shall take place on Sundays or public holidays or outside the hours of 07:00 to 18:00 weekdays and 07:00 to 13:00 Saturdays.

Although the flood risk assessment and drainage strategy are satisfactory specific detailed design of the surface water disposal arrangements will be required when the design details of the development have been finalised.

2. Before development commences, a scheme for the discharge of surface water from the buildings hereby permitted shall be submitted to and approved by the Local Planning Authority and shall be carried out as approved.

REPRESENTATIONS

Advertisement Yes – expired 22/05/08
Site Notice displayed Yes – expired 22/05/08
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Departure
Neighbour notification

No
Yes – expired 15/05/08

Third Party responses
(includes CPRE)

Yes – 16 letters raising the following issues/concerns:

- Poor road network within Tisbury, in particular Hindon Lane is narrow, (not consistently 5.5m throughout its length) and lack of pavements;
- Concern at additional vehicles generated including large vehicles;
- Transport assessment is based on data from 2006. Traffic levels have been increasing recently and 243/232 vehicles were counted on 8th/13th May respectively. Peak-time traffic has increase by 27% in the past 18 years and levels for 2008 are already higher than the forecast made for 2016 made in the Transport Assessment;
- Unlikely that new occupiers will realistically access site by foot. Distances to site in TA are measured from centre of site (greater at furthest edges), site is uphill climb;
- Poor bus service (although increase in potential users may make service viable);
- TA assumes that the amount of traffic will decrease or remain static between 2011 and 2016 which is unrealistic;
- Concern at position of offices and small workshops among the houses;
- Increase in number of dwellings proposed to 90. This is beyond the 75 that the Inspector (at the Local Plan Inquiry) considered that the area could accommodate. Even if 6 are accepted because of the loss of the swimming pool area this only produces 81 dwellings;
- Noise and hours of work during construction;
- Phasing of development to ensure affordable/employment units are constructed;
- Potential for cars belonging to some properties in Hindon Lane to access/park from the rear;
- Discrepancies/inaccuracies with the submitted forms;
- Control over use of the emergency access;
- Impact of the 'Exceedance Overflow Protection' Area;
- Liability/positioning in relation to quarry to south of Rosebank;
- Impact on protected species;
- Impact on sewage system;
- Impact on local schools;
- Inadequate recreational facilities;
- Increase in noise and disturbance;
- Impact on property values;
- Opportunity has not been taken to provide through vehicular access from Hindon Lane to the school/leisure centre complex which would have allowed school coaches/staff vehicles to avoid the congested route through the village;
- Allowing vehicular access between the site and Weaveland Road would help spread the load of increased traffic. It would not be a 'rat run' to the village centre because Hindon Lane would still provide a quicker and more direct route;
- TA is not realistic;
- Development is out of scale and will produce a 'split' village (drawing life away from the High Street as the centre of the village);

- Increase in housing in the last 20 years means that saturation point has been reached;
- No need or interest for workshops or small industrial units;
- Far from contributing to the village, new residents will just encumber it by their traffic as they drive to work or shop outside;
- Landscaping on the western boundaries won't soften the impact on the AONB, just put a cosmetic fringe around it that won't even conceal the height of the proposed buildings;
- Traffic calming measures will just produce worse jams and queues of cars and lorries. Such measures reduce speed of traffic not volume;
- Risky social experiment of forcing a new community onto an old one, and of forcing affordable and non-affordable houses together. Reality is that friction will result;
- Preferable that Tisbury evolves in small steps rather than this out-of-scale proposal;
- Pressure from above to meet housing targets by building on Greenfield sites should be resisted;
- The brownfield station site is an alternative that, if used instead, would 'head off' objection to this proposal;
- SDC should insist that Central Government re-evaluates new house building calculations, prevent all new development until this re-evaluation is available, insist that all future approvals are credited against the overall future building requirement; SDC should ignore timescale rules and put weight behind common sense and fairness to the communities;
- Residents of the houses at 1 – 8 Hindon Lane use the lane off Hindon Lane, proposed to be used as a public footpath, to access their properties. If the access is denied to these residents then they may have to park on Hindon Lane, resulting in more congestion and hazard;
- Increased population does not mean more business, just more movement;
- There are already vacant work space units waiting to be rented in the village and surrounding area;
- There is clearly a need for new housing;
- No concession has been made to creating open spaces or to address environmental or ecological concerns;
- Impact on sense of space of nearby properties; domination of existing dwellings on Hindon Lane by new dwellings' height;
- Object to idea that current footpath should be upgraded to a cycle route; track is already used by motorcycles (despite prohibition) and entry onto Hindon Lane is a blind corner, and onto narrow, poorly lit road. Footpath also implies lighting which will impact on property;
- 8 metre buffer, agreed at initial stages, between end of existing gardens and development has been reduced to only a few metres. Given restrictions on extensions etc in relation to subservience to the original building, suggest that this development needs to show subservience to existing houses by being lower in height, less dense and further away;
- Potential for water run-off both during and after building;
- Where has the swimming pool proposed to be next to the sports centre gone.

Parish Council response

Yes – Tisbury and West Tisbury Parish Councils have

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expressed considerable concern and consider that if the development were to go ahead on the scale proposed and on this peripheral site, it would have a very major and damaging impact on the village and on the surrounding area. The Parish Councils' specific concerns are that:

- The application is substantially different from the development brief. The application now relates to 90 dwellings rather than the 75 previously proposed. This exacerbates the impact on the village and the surrounding area, and increased density on the site will provide a poor quality of live for the eventual residents;
- The design of the development equates to one huge single-entrance cul-de-sac is inappropriate for an village and the AONB. This seems central to the developer's intentions;
- The PC objected to the planning brief's three storey houses. The outline application's 2.5 storey houses have not necessarily achieved any significant reduction on the height of the houses. Away from the High Street the Tisbury vernacular is rural and should not be subjected to an urban style;
- The design of the dwellings remains unclear. Preference for natural stone and absence of block/render;
- Many of the trees indicated are shown in private gardens and it is not clear how these will be provided or protected;
- Nothing is said in relation to street lighting;
- The PCs are not convinced that there will be sufficient demand for the employment units – particularly given the way that they are scattered within a housing development which will raise concerns over commercial traffic and security;
- Express concern that the industrial units will end up being converted to flats or shops (with impact on High Street);
- In light of current market conditions the developer is likely to want to delay or phase development. How would phasing be handled? The worst outcome would be a fully-serviced site and a half built development;
- One car space per house and one per commercial unit is a triumph of central government policy over common sense. The consequences will be up to 50 cars continually parked on already narrow roads. Fire engines need clear passage of some 2.8m; a realistic allowance for off-road parking needs to be made;
- 20mph speed limits are wishful thinking – the existing 30mph limit is widely ignored;
- The proposed installation of a roundabout on Hindon Lane is totally inappropriate in a rural village lane. In proposing it the developer is highlighting the traffic problems that will arise from development of this scale in this location;
- The proposal to build 40m of footway either side of the roundabout is pointless given the impossibility of extending that footway further towards the village centre. Adding a bus stop at this point will be equally pointless if the bus service remains as it is;
- The Transport Assessment makes a number of unreal assumptions. Residents will not all walk to the village given the walk of half a mile (uphill on return). Not all residents will be fit, able and willing to walk this distance especially if accompanied with children/shopping, as evidenced by Churchill Estate residents who drive. Danger of walking

- made worse by lack of footways on Hindon lane;
- There will be a substantial traffic generation from the estate. 90 houses plus employment will increase the number of cars in the village by up to 200, plus employment and school, traffic;
- All the extra traffic must pass through existing pinch points in nearby hamlets – an unreasonable imposition on surrounding hamlets;
- Hindon Lane is not sufficiently wide to accommodate passing buses and lorries;
- The TA assumes that TisBus (a volunteer service) can step to accommodate for the very limited commercial buses but there appear to be no proposals for the developer to contribute to the costs of running TisBus;
- Many new residents will drive to the railway station, exacerbating the parking problem at the station/Nadder Close car park;
- Construction traffic is barely mentioned – this will cause substantial disruption and impact on air quality;
- Outline application makes no mention of renewable energy, recycling, water reclamation etc;
- More provision needs to be made to accommodate species' habitats;
- If the surface water storage and drainage system fails would residents have any redress;
- PCs want assurance from Wessex Water that the existing foul drainage system can cope with 200 or so extra residents and that the treatment plant will have its capacity increased;
- Concern that the PCs would have to spend the financial contribution within five years of the date of the s106 agreement but the contribution will not be received until 24 houses have been built (which might give little time to act);
- Parish Councillors propose that any new houses resulting from this application should be treated as part of the future contribution towards the 350+ houses likely to be imposed on the Tisbury area.

Separately Tisbury Parish Council has also made comments on the draft s106 legal agreement submitted by the developer. These are referred to in the relevant sections below.

Chilmark Parish Council have also commented on the application, objecting on the basis of traffic and congestion along local roads. They are also concerned that there is inadequate infrastructure of jobs in the area to sustain more development, and that the cumulative effect of more and more development harms the scenic natural beauty of the AONB.

MAIN ISSUES

Whether development of the site for residential and employment uses is acceptable in principle
 Whether the number of dwellings is acceptable, including the impact on the character and appearance of the area, AONB and adjacent Conservation Area
 Whether the level of employment floorspace is acceptable
 Means of access, highway safety and proposed improvements to public transport facilities
 The provision of community facilities
 Public recreational open space
 Affordable Housing
 The impact on protected species
 The impact on the water environment (drainage, flooding)

The impact on neighbouring properties
The impact on archaeological features
Education facilities
Waste Management
Other factors

POLICY CONTEXT

Adopted Salisbury District Local Plan 2003 (saved policies)

H14	Land at Weaveland Road, Tisbury (housing)
E14A	Land at Weaveland Road, Tisbury (employment)
G1, G2	General Development Criteria
G5	Water Supply and Drainage
G6	Sustainable Development
G9	Planning Obligations
D1	Extensive Development Proposals
D6	Pedestrian Access and Permeability
D7	Site Analysis
D8	Public Art
H25	Affordable Housing
TR1	Sustainable Transportation
TR11	Parking Standards
TR12	Sustainable links in Development
TR13	Footpath Improvement
TR14	Cycle Parking
R2	Recreational Open Space
R4	Provision of contribution to indoor leisure facilities
R17	Public Rights of Way
C4, C5	Development in the AONB
C12	Protected species

Adopted Wiltshire Structure Plan 2006

DP1 Pursuit of Sustainable Development

Supplementary Planning Guidance

Creating Places
Sustainable Development
Affordable Housing

Adopted Development Brief

Development Brief, Hindon Lane, Tisbury – December 2006

Government Guidance

PPS7, PPS1, PPS9, PPS22, circulars 11/95, 01/2005

PLANNING CONSIDERATIONS

Whether development of the site for residential and employment uses is acceptable in principle

The starting point for considering this application is the Adopted Development Plan which remains primarily the saved policies in the Adopted Salisbury District Local Plan 2003. The relevant policies are the site-specific policies H14 (residential development) and E14A (employment land). These policies have been backed-up by the Adoption of a Development Brief for the site in 2006.

The Local Plan did identify this site as forming part of the second phase of development of the Western Area Committee 11/12/2008

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Local Plan (1999 – 2011) period, and the Council was required to make decisions about the release of development sites in the second phase, following an assessment of housing land supply.

On 7th June 2006 the Council's Cabinet delayed the release of this site (while allowing the release of two other sites elsewhere in the District) because an alternative 'brown field site' (the site at Station Works) was also being promoted as part of the Local Plan process.

The Council's Cabinet resolved to delay the release of the Hindon Lane site, for 6 months, until a marketing exercise had been undertaken to establish whether the Station Works would be retained in employment use. It was established that the Station Works site would be retained in employment use and, as a result, the Council's Cabinet agreed, on 28th February 2007, that the Hindon Lane site should be released.

Therefore, given that specific provision has been made in the current adopted Local Plan for the development of this site for a mix of residential and employment uses, and that this site has now been released for development under phase two of the current Local Plan, there is no doubt that development of this site is, in principle, acceptable.

It is recognised that government guidance in Planning Policy Statement Seven does state (at paragraph 22) that major development (such as this) should only be permitted in Areas of Outstanding Natural Beauty in exceptional circumstances, which would need to be in the public interest to proceed and which would need to be the subject of rigorous examination. Assessment would need to be made of environmental/landscape impact and the scope for developing sites outside of the AONB.

This guidance was published in August 2004 and therefore post-dates the adoption of site allocation (in 2003), though it pre-dates the adoption of the Development Brief (2006) and the release of the site (2007). Nevertheless, it is clear that in allocating the site consideration would have been given to the impact on the AONB.

The extent to which particular sites in the District (both within and outside of the AONB) should be developed has already been considered through the local plan process and to try and reconsider other possible sites for housing outside of the AONB as part of this planning application would make the Local Plan process meaningless. There were only relatively few sites allocated under the current Local Plan for residential development within the AONB and this therefore makes their development exceptional. The provision of additional housing on suitable sites such as this is also considered to be within the wider public interest.

Against this backdrop, to try and argue that development should not be permitted on this site as a matter of principle would have little chance of successful defence at appeal, and would risk a significant award of costs against the Council.

Whether the amount of residential development is acceptable and the impact on the character and appearance of the area, AONB and adjacent Conservation Area

This application is only in outline. Therefore issues relating to design, scale, appearance and landscaping will all be considered through future applications where much greater detail will be necessary. Indeed, many of these issues have already been considered to some extent through the Development Brief in any case. This gives a clear indication – as do the comments made through this application – what will be required by the developers in subsequent applications.

Nevertheless, as part of this application, consideration does have to be given to whether specifically 90 dwellings and 3,800 square metres of employment development can be accommodated in principle without demonstrably harming the character and appearance of the AONB, the adjacent Conservation Area and the area in general. Consideration also has to be given now to the specific visual impact of the means of access.

It has to be remembered that permission could only reasonably be refused now, at outline stage, if it was considered that the development proposed could not conceivably be acceptably undertaken – ie that 90 dwellings, however they were designed or laid out, would inevitably result in development that was (for example) too dense, or too tall, or out of character.

Government guidance in PPS3 says that “the density of existing development should not dictate that of new housing by stifling change or requiring replication of existing style or form. If done

well, imaginative design and layout of new development can lead to a more efficient use of land without compromising the quality of the local environment”.

It should be borne in mind that the Adopted Local Plan policy (H14) does not set a specific figure for the number of dwellings proposed for this site. However the Development Brief does give a figure of 75 dwellings, a figure which is based upon the comments of the Planning Inspector following the Local Plan Inquiry and was included (‘an estimated 75 dwellings’) in the Local Plan under phase 2 (2006 to 2011). The development of the site for 90 dwellings as proposed now would clearly be an increase beyond the level envisaged during the Adopted of the Local Plan (in 2003) and at the time that the Development Brief was adopted (in 2006).

The applicants argue that, in addition to the 75 dwellings envisaged at the Development Brief stage, there has been further movement and discussion with local stakeholders since that brief was adopted. This has led to the removal of the ‘swimming pool’ element from the development and its replacement with housing, in the form of 6 additional dwellings (making 83 dwellings).

The Development Brief gave some flexibility for the use of this ‘community’ land, saying that ‘an indoor swimming pool or other community use’ is proposed, and that ‘if the community consider that this community land can be put to another beneficial use, this will be supported by the developer and Salisbury District Council. Any decision will be made in consultation with the community’.

It is now thought doubtful that a new swimming pool would be a practical or viable proposition so, instead of providing a pool a number of alternatives were considered. These included reserving it for a swimming pool (also thought unlikely to come to fruition), transferring the land to the Parish Council directly, or using it to provide additional parking to serve the adjoining leisure centre.

However, it is now proposed that a sum of money derived from the 6 dwellings (£400,000 – based on the applicant’s opinion of the residential market land value) would be paid directly to the Parish Council to be allocated to community recreation as it sees fit. It is understood that this arrangement has been agreed with the Parish Council.

The applicants also argue that, even at 90 dwellings, the development of this site as proposed has a density of around 36 dwelling per hectare which they claim is within the ‘PPS3 range’. In fact, PPS3 advises that 30 dwellings per hectare (dph) should be used as a national indicative minimum to guide decision-making, at least until local density policies are in place.

However, the Council’s Forward Planning officers do not object to the increase in housing numbers. The site falls within ‘phase 2’ of the local plan, namely after 2006 while the plan period for the Regional Spatial Strategy (currently in draft format) ranges from 2006 to 2026.

Therefore the Council’s Forward Planning department say that the total number of houses provided on this site *can* be deducted from the total number suggested for the Nadder Valley community area within the Core Strategy Preferred Options.

Indeed, they say that some consideration should be given as to whether an *increased* number of dwellings (ie greater than the 90 proposed now) would be acceptable, to the community (within a future application) to reduce the number that will be required to be delivered on other sites in the Nadder Valley area.

Essentially, given strategic demand for greater housing development, and the fact that housing development should be focused in locations close to established ‘built-up’ areas with a range of services, employment opportunities and public transport facilities, (rather than in unsustainable sites in the open countryside), if this site is developed to a higher density, there will be less pressure for the development of other sites in and around Tisbury in the future.

Given that this site has already been earmarked for development, is immediately adjacent to the current established physical settlement boundary and is within walking distance of the centre of

Tisbury (with its range of shops and services and reasonably good connections by train), it makes strategic sense for more rather than less development to be focused on this site.

The applicants also argue that the reduction in employment space (addressed below), and the fact that they have produced an indicative layout that shows that development would not be too cramped or dense, all point to the proposed figure of 90 dwellings being acceptable. It is also pointed out that, even excluding the 6 'swimming pool' dwellings, this will result in more affordable housing units.

Officers have considered the indicative layout plan submitted with the application. It is clear that the layout is based on the approved Master Plan that has already been approved through the Development Brief. To accommodate 90 dwellings on the site, the dwellings would clearly have to be two storey (as opposed to single storey), and the height of the dwellings is sensitive given the need to both minimise landscape intrusion yet also reflect the positive design characteristics of the village.

The AONB group, in their later comments on the application, have highlighted the importance of the AONB landscape and the fact that the proposal is on a rising ridge where modern buildings, high structures and contemporaneous materials will stand out. They argue that height, form, materials and landscape integration should be demonstrated before granting planning permission and that the application in its current form does not contain sufficient evidence to demonstrate this.

The AONB group have also directed officers' attention to a recent appeal decision (by the Secretary of State herself) for 700 dwellings on land at Salisbury Road, Mampitts Road and Gower Road, Shaftesbury (references APP/N1215/1191202 & APP/N1215/1191206). Members may recall that although this is a site in North Dorset District Council's jurisdiction, the Western Area Committee made representations because of the potential impact on the AONB within Salisbury District Council's area.

This decision is highlighted by the AONB group because it shows the important status of the AONB (particularly bearing in mind that that site was outside of the AONB) and also in that case some 60 conditions were imposed, including in relation to landscape integration, SUDS, views to the AONB, orientation of buildings to minimise visual intrusion, limitations on building heights, lighting and control of light pollution. That case was also an outline application, with all detailed matters reserved, on an allocated site where there was also a development brief. It is argued that there are clear parallels between the two cases.

Having given careful consideration to this appeal decision, it is recommended that further conditions should be imposed, along the lines of those imposed by the Secretary of State in relation to lighting, levels, landscaping and the submission of a design code.

It is not considered, however, that the level of detail that the AONB group have asked for should be required at this stage, before *outline* permission has been granted. It has to be accepted that the landscape impact on the AONB was taken into consideration at both site-allocation and development brief stages.

The Authority retains full control through the reserved matters stage including in relation to landscape, lighting and materials and should proposals be submitted at that stage which do not demonstrate that there would be no unacceptable impact then it would be open to the Authority to refuse permission.

In terms of building heights, the work already undertaken at development brief stage envisaged primarily two storey development with some two-and-a-half storey forms (ie using dormers contained within roof spaces), and the applicants have indicated through the Design and Access statement that this is the intention with this development.

Officers had not previously recommended a condition that restricted building heights to 2.5 stories, considering that the control available through the Reserved Matters stage, and the indication of the development brief that only 2.5 stories would be acceptable, was sufficient. However, in light of the Secretary of State's decision to impose a condition in relation to building heights in the Shaftesbury case, it is considered prudent that a height condition is imposed,

making crystal clear that any buildings over 2.5 stories would be unacceptable.

In relation to the density of the layout, although in one or two cases on the indicative layout there are separation distances that are lower than the normal standards (ie less than 20m window to window), guidance from CABE makes clear that such standards have to be applied flexibly (in order to achieve a design that reflects traditional vernacular) and, in any case, it is likely that any adverse overlooking between dwellings can be addressed at the Reserved Matters stage.

It is also considered that if the level of employment space proposed was as envisaged at Development Brief stage (ie 1.4ha), this together with 75 dwellings and the swimming pool site, would have been likely to result in a more dense site (at least in 'physical' terms) than that proposed now.

It should also be remembered that the Development Brief was approved at a time when the-then PPG3 encouraged densities of between 30 to 50 dwellings to encourage efficient use of land, and therefore the proposal has always been, and remains, at a relatively low density in that context.

Given the indicative layout submitted with the application, and the fact that it has already been accepted that a significant amount of development can take place on the site, it is considered that the development of 90 dwellings and 3,800 square metres of employment floorspace can be developed without harming the character and appearance of the area, the AONB or the adjacent Conservation Area.

Overall, it is considered that the number of dwellings proposed now (essentially nine additional dwellings when the 'swimming pool' site is taken into account) would not result in an unacceptably cramped or dense development. Meanwhile, although the AONB group describe the roundabout etc as 'heavy handed', it is considered that the proposed means of access would not be visually unacceptable in its design.

Whether the level of employment floorspace is acceptable

In contrast to the increase in housing numbers, the amount of employment floorspace proposed now, at 3,800 m², is a significant reduction from that set out both in the relevant Local Plan policy (E14A) and the Development Brief.

The Council's Economic Development department have calculated that the area proposed by the applicants in the indicative layout would only amount to some 0.54ha of land (based on a development density of 70% for B1 use, allowing for multiple stories etc). This is clearly considerably less than the original allocation of 'approximately 1.4ha'.

However, although the text of the brief mentions a requirement for 1.4ha, this is caveated stating that the requirement is only for 'up to' 1.4ha. Therefore the requirement set out in the Local Plan policy has already been diminished somewhat by the Development Brief.

In response to concerns in relation to the reduced employment floorspace, the applicants have submitted an employment/floorspace report by a recognized local estate agent (Woolley and Wallis) which provides an assessment about available employment space in and around Tisbury.

This says that because of schemes that were built in the late 1990s and early 2000s there has been an overall increase in supply creating an over-supply situation with worsening demand. They consider that the total available employment land stock within a 5 mile radius of Tisbury is approximately 28,500 square metres, and any further significant developments would undoubtedly affect the competing sites. In Tisbury itself they estimate that there is approximately 5,575 square meters of employment floorspace (essentially B1 and A3 uses but excluding public houses and community facilities).

Woolley and Wallis take the view that the 70% ratio suggested by Economic Development is high and not supported by precedent. They say that, on the basis of 70%, the resultant level of floorspace from 1.4 hectares would result in 9,000 square meters of employment floorspace,

which would be excessive for Tisbury. They go on to say that the applicant's level of 3,800 square meters would still provide an additional 57% of employment accommodation over and above the existing small-to-medium sized accommodation already occupied.

In response to the Woolley and Wallis report, the Council's Economic Development department says that the overall picture of commercial market conditions in rural areas, as conveyed by the report, is understood although as this site is strategically allocated for the long term, Economic Development say that caution should be given to concerns about how long it may take to complete and fully let/sell such a development

While they consider that around 4000 square meters of floorspace would seem acceptable (based on the analysis of market supply) it is commented that this may require land space of about 1ha, although this should be clarified. However, given that the description of the development proposed is for '3,800 square meters of B1 business floorspace' it is considered that the extent of land which is required to provide the 3,800 square meters is essentially one for the reserved matters application.

In any case, the applicants have also argued that the reduction in floorspace is in accordance with the Development Brief's Master Plan. It is true that the Master Plan does identify an area for employment land that is broadly in line with that proposed in the indicative layout, and this has been accepted by Forward Planning as being accepted by the community's during the earlier consultation stages.

Overall, on balance, it is considered that the reduced amount of employment floorspace proposed in the application is acceptable, and that although this does not fully comply with the level set out in the Local Plan policy, that this should not result in a recommendation of refusal.

Highway safety, means of access and proposed improvements to public transport facilities

As an outline application, it is at this stage that consideration has to be given to whether the proposed development can be accepted in principle without compromising highway safety. The details of the means of access have to be considered at this stage, including (for example) the detail of the roundabout, treatment of the emergency access etc. The internal layout arrangement can, however, be left to the reserved matters application.

It is proposed that the principal vehicular means of access to the site should be off Hindon Lane itself, with a junction served by a roundabout being located to the north west of the site. Other means of access include the 'emergency' access from Weaveland Road, and the public footpath that runs from Weaveland Road to Hindon Lane.

In the Development Brief and as part of this application, it is accepted that the site is in a relatively 'sustainable' location in that it is relatively close (within walking distance) of the centre of Tisbury which has a range of facilities (shops, employment opportunities, schools, the sport centre etc) and public transport connections (railway station, some bus services). It is envisaged that pedestrian movements would use Weaveland Road rather than the narrow Hindon Lane, which does not have pedestrian pavement for the majority of its length.

The application proposes new bus stops at the junction with Hindon Lane to encourage public transport use, and the westward relocation of the existing 30mph speed limit on Hindon Lane. Additional footways (approximately 40m long) would be provided on each side of Hindon Lane to the east of the roundabout. The application also proposes that the internal layout is designed to encourage walking and cycling with a design speed of 20mph within the residential areas. The internal layout is, however, a matter for a subsequent application.

Through the Local Plan process it has already been concluded that a significant amount of development (namely 75 dwellings and up to 1.4ha of employment floorspace) can be accommodated acceptably without compromising highway safety.

Since then two factors relevant to this question have changed, namely the increase in the number of dwellings (and the reduction in employment and community-use land), and the increase in levels of traffic/car movement generally.

The applicant's highways consultants have submitted data that estimated vehicle trip generation. This is based on a comparison with an established residential development in a settlement (Teignmouth in south Devon) with similar characteristics in relation to peak time travel-to-work

modes of transport. They argue that the two settlements have similar levels of population who do not use the car to travel to work (both around 60%).

On this basis, and on the basis of established national TRICS data in relation to the employment land, the applicant's highways consultants estimate that traffic generated by the development would increase the existing traffic flow to approximately 2,600 vehicles (a two-way flow on a weekday in the design year of 2016).

The applicants argue that this is acceptable in the context of national, county and local policies, saying that Government guidance in 'Manual for Streets' indicates that residential roads with frontage access (such as Hindon Lane to the east of the proposed roundabout) can accommodate in the order of 10,000 vehicles per day without any significant effect on highway safety, or causing undue delay.

Wiltshire County Council, as Highway Authority, has been consulted to provide technical and professional advice regarding the matter of highway safety. They have recommended a number of conditions/requirements, including a travel plan which encourages sustainable modes of transport.

However, subject to these requirements, they have not objected to the development proposed and (subject to conditions) have accepted the proposed design of the roundabout and means of access (both the emergency access and the main access).

Access to dwellings on Hindon Lane

A further consideration is the provision of private access to serve dwellings 1 to 8 Hindon Lane. Most of these properties (a row of 8 semi-detached dwellings immediately to the north of the site) currently have no on-site car parking and as a result their vehicles currently park on-street, adding to the congestion on Hindon Lane. As part of the consultation process, it has been suggested that these dwellings could have their own private driveways to the rear of the dwellings, being accessed via the new development.

This did not form part of the scheme envisaged during the Local Plan process or at Development Brief stage, and indeed the applicant's indicative plans do not show this as part of their proposed layout. The Highway Authority has made clear that, even if no new provision were made for these 8 dwellings, this would not justify the refusal of permission on highway grounds.

However, as a gesture of goodwill, the developer is willing to provide rear access to some of these dwellings (numbers 2 to 7), provided that this does not compromise engineering aspects of their scheme (for example the drainage arrangements). Private access to number 1 is currently available already off Hindon Lane, whereas the developer is unwilling to make provision for number 8 because this would impinge on the site layout and result in even less area for an appropriately-sized infiltration trench.

While the provision of rear parking to these dwellings would be a benefit in reducing congestion on Hindon Lane, it is not a factor that would dictate refusal in its absence. Indeed, given that this would essentially relate to the 'internal' layout of the site this is a matter that can be left to the Reserved Matters stage. It would not be appropriate to make this a requirement (ie via a condition) of granting outline consent.

Concern has been expressed by the Parish Council regarding car parking, both for the industrial units and the dwellings. However, the fact remains that Government guidance and the current Local Plan set only maximum standards for car parking rather than minimum standards, in order to discourage car use and encourage sustainable transport. This is particularly relevant given Tisbury's relatively good public transport links (by train and less so by bus) and the proximity of the development to Tisbury's centre.

Overall, and bearing in mind the response of the Highway Authority in particular, it is considered that highway safety matters would not justify the refusal of permission.

Access to the school

A further consideration that has been raised locally is the possibility of access being made from the Hindon direction into the school via the Hindon Lane. At the moment school coaches from Hindon to the school travel via Hindon Lane and Weaveland Road. It is argued that it would be preferable for school coaches to avoid both Hindon Lane and the 'estate' entrance by going direct through the development site.

Although the potential for through access was raised at the early stages of public consultation of the Hindon Lane proposals, the Highway Authority have resisted a public highway access onto Weaveland Road because of concerns that this would result in traffic 'rat-running' through the new development site, using it as a short cut.

It is has subsequently been argued that the access to the school would be for private use only with some means of preventing use by the general public (for example by gates, collapsible bollards etc, similar to the means of allowing only emergency access to the site from Weaveland Road). The developers have expressed a willingness to provide this and had intended to secure the details through the reserved matters applications.

This possibility has been put to the Highway Authority, but they remain concerned at the idea of an access to the school from Hindon Lane. They have commented that they would not encourage a vehicular access because traffic from the site and beyond would be encouraged to cut through the school grounds, simply because the route could be conceived as a short cut.

They go on to say that as the new development is located right next to school and leisure centre, pedestrian/cycle access only is all that is required with existing vehicular access to school and leisure centre remaining available from Weaveland Road only. The situation on Weaveland Road will therefore not be worsened by the development, whereas a new link could generate additional movements.

The Highway Authority do go on to say that some new, extraneous vehicular access through new estate to park near school and leisure centre is possible, but the detail design should ensure that these movements are discouraged as much as possible and school travel plan would also be able to further discourage.

This is essentially a matter for the reserved matters application, although members may wish to consider an informative either ruling out the possibility of an access through the school or (should members take a different view to the Highway Authority) encouraging such a provision.

The provision of community facilities (the swimming pool)

Policy R4 requires that 'where proposed development, either individually or cumulatively with other developments in the settlement, is of a sufficient size to generate an identifiable need for additional indoor community or leisure facilities, developers will be expected to provide a suitable facility within the site or make a contribution towards improving facilities within the settlement.'

The intention has been that this provision should be met by the construction of a new swimming pool that is specified in policy H14. The proposal was for the swimming pool to be positioned adjacent to the existing sports complex on the ridge of the site so that it could be accommodated without harm to the AONB.

However, in the time between the adoption of the Local Plan and the Development Brief, it is clear that the swimming pool element was questionable. The Development Brief requires a swimming pool '*...or other community use...*' which, if the community consider that this land will be put to another more beneficial use will be supported by the Development and the Council.

It is now thought very doubtful that the new swimming pool as originally envisaged would be a practical or viable proposition. Instead of providing a pool, it was decided that providing

dwellings on the site, and allowing the market value of those houses to be transferred to the Parish Council for spending on an appropriate related community use, would be a preferable solution.

The applicant's opinion is that the market value of the proposed 6 dwellings on the 'swimming pool' site would be around £400,000 and that rather than impose a 'market conditions' clause to the s106 (so that the sum is based on the local market value), simply requiring that sum is more efficient.

On one hand it could be argued that £400,000 for six dwellings (two of which are flats over garages) is a relatively low amount – an average of only £67,000 per unit. This is especially true when it is considered that the figure was envisaged at a time when the economic climate was healthier than at present.

It is accepted that current market conditions will have reduced the average value somewhat. However, it has to be remembered that permission is being granted for a number of years and that the housing market may well have recovered in that time.

On the other hand, the Parish Council appear content with the offer, which it is understood have been the subject of lengthy negotiations between developer and the Parish Council. This position has also been agreed by the Council's Forward Planning Officers.

It should also be borne in mind that the developer could propose a different use for community land (such as simply giving the land 'as is') which would provide less benefit to the community than the £400,000 but would be difficult to resist (by refusing permission) because it has been accepted that the swimming pool envisaged during the Development Brief is unlikely to be developed. Having a set figure also provides certainty for the Parish Council, helping their planning of the spending of the money.

It is therefore considered that, in principle, the replacement of the 'community land' with contribution-bearing housing development is probably the best community option for this land.

The Parish Council has concerns regarding the proposed trigger for paying the contribution (ie not until 24 houses have been built), saying it should be required before permission is granted. With the current 24-house trigger they are concerned that this makes it difficult to plan capital expenditure and that because of the delay the extended facilities are unlikely to be ready before the additional demand from new occupiers is felt.

They are also concerned about the repayment requirements should any of the contribution not be spent. The current draft S106 sets the unspent trigger at 5 years of the date of the agreement. The Parish Council argue that there should be no such requirement at all (given that 6 additional dwellings are only being permitted to fund the improvements).

They go on to say that, if there must be repayment requirement, there is a risk that if (say) 4 years elapses before any money is paid that leaves only a year to plan and carry out the project. If 5 years elapse then no money would be paid at all. It would also restrict the Parish Council withholding final payment (for unsatisfactory work for example) because that money would also have to be repaid.

The Parish Council also want confirmation that renovating the buildings around the outdoor swimming pool and improving/extending the open air car park facilities at the sports hall/Nadder Hall complex would be a permissible use of the R4 money. They also raise points in relation to the open space land and other, technical, legal points.

The details and clauses of the S106 agreement are normally the subject of negotiation between officers and the developer, having regard to the aims of the Local Plan and Development Brief, and bearing in mind the comments of the Parish Council and local residents.

However, in relation to the payment and re-payment of the £400,000 the developers have indicated a willingness to reach an appropriate trigger linked to occupation. They say that they cannot be expected to pay the monies 'up front' or prior to the occupation of any of the dwellings and that it is only reasonable that they should be entitled to derive some income from early sales and occupations. They also point out that they could revert to the original proposal (simply

designating the piece of land 'for swimming pool/community use'). The applicants also express a willingness to negotiate an appropriate period/trigger for re-payment.

It is considered that these are aspects on which it is possible to reach a decision following negotiation between the parties, but that this negotiation should be delegated to officers to undertake and resolve, after committee's resolution on the principle of the development. If members feel it necessary, they could resolve that a report be brought back to WAC following negotiations, should either of the local ward members feel it necessary.

Public recreational open space

In addition to the contribution now to be paid under policy R4, policy R2 also applies to the development, in relation to the provision of public recreational open space facilities. In the case of development of more than ten houses, the requirement is that this should normally be provided on site. Policy H14 also specifically requires recreational open space.

The Development Brief identified a specific site to the south of Tisbury School for the children's play and general amenity open space area. This site is away from the application site itself but within relatively easy walking distance. The land currently consists of a field of some 8.5 acres (3.44ha).

A separate planning application will need to be made to consider whether the change of use of this land, in the open countryside, would be acceptable. Therefore a final decision on this aspect cannot be made until such an application is granted.

However, given that the site has already been specifically identified in the Development Brief for this use – and therefore the impact of the change of use on the character and appearance of the countryside has presumably already been considered and found acceptable - it would be difficult to refuse an application for the change of use of this land. Therefore subject to a further planning application and to the legal agreement ensuring that it is released to the Parish Council, there would be adequate provision for public recreational open space.

Affordable Housing and housing mix

The developer is required to make provision for affordable housing on the site. The developer is proposing that 40% of 84 of the dwellings (ie excluding the 6 'community land' dwellings) should be affordable and that of those 40% (ie 34 dwellings) 40% should be 'shared ownership' and 60% 'affordable rent'.

This arrangement has been accepted by the Council's Housing and Forward Planning sections and would be achieved by means of the s106 agreement. It is therefore considered that the proposal will make adequate provision for affordable housing.

As part of the agreement, the Council's Housing section has suggested a 'cascade' clause – ie a clause that would allow units to be changed from shared ownership to rented because we would not want to be in a position where there are shared ownership units which cannot be sold. It is also likely that an 80% 'staircasing' clause would be imposed, so that the units do not become non-affordable over time. The Housing officer also accepts the Parish Council's wish that residents of other adjoining parishes should have preference over residents of the District as a whole in qualifying for the affordable housing.

It is recommended that the details of the S106 are left for consideration and negotiation with officers and the developer, with regard being given to those comments made by others.

The Council's Forward Planning Officers have set out the preferred mix of house types that they would wish to see in the development – ie that the percentage of 1, 2, 3 and 4+ bed dwellings (both for market and affordable housing) should match the identified need as set out in the Housing Needs Survey 2006.

It is considered that this should be left for determination through the Reserved Matters application(s) rather than applying what would be an overly-rigid condition/S106 clause requiring these splits. However an informative could be used to make clear to any future applicant for

reserved matters that these are the numbers of dwellings that the Authority wishes to see in the development.

The impact on protected species

Consideration has been given to the potential impact on protected species and their habitats that could result from development of the site. At the time of the Development Brief, the presence of water voles, otters and Great Crested Newts was discounted because of the lack of water on the site. The impact on badgers and dormice and the 'connectivity' of the site (ie the links north south through or around the site) are the primary ecological issues together with the site's botanical interest. There was no sign of bats on site and very limited scope for habitat by reptiles on site.

Two reports have been submitted with the planning application relating to an extended 'phase 1' survey dated September 2006 and a Dormouse Survey dated November 2006, both produced by Michael Woods Associates.

Evidence of dormice has been found in the key north/south hedgerow within the site, and in relation to badgers a two-entrance sett was found on site, in the hedgerow between fields 1 and 2 (ie the boundary between the two parcels of land that form the application site), 30m north the woodland. Off site there is an active main sett on the northern boundary of field 1 with entrances on top of the quarry and the quarry face (ie to the rear of Rosemount).

The recommendations of the reports are that, in relation to badgers, all excavation work within 30m of the sett is carried out between 1st July and 30th November in any year. For the 'off-site' sett the recommendation is that the likely best option is to fence off the set for a distance of 30m, with any work in this area needing to be carried out under supervision between the same time period.

In relation to bats the report recommends that any trees to be felled or have large branches removed should be checked by a tree-climbing arborist prior to felling. With regard to birds, the report recommends that an experienced ecologist identifies individual nests and advises on mitigation, should work commence during the nesting season.

In order to ensure that dormice, badgers, reptiles and bats continue to have access across the site, the report recommends that a wildlife crossing is created where the central hedgerow has to be removed to allow access between the two parcels of land.

The crossing consists of limiting hedgerow removal, reducing the road to a single lane, planting up on either side of the crossing with large trees (to ensure arboreal connectivity across the road for dormice and bats), installation of flush kerbs (to keep reptiles out of gully pots), low level lighting (to limit nocturnal disturbance) and traffic calming (to slow traffic where badgers cross).

In relation to hedgerows more generally, although one section has to be removed to allow access, new hedgerow along the southwest boundary and strengthening of other hedgerows is proposed.

Natural England been consulted on the application and have raised no objection, subject to a condition securing the ecological details and mitigation proposed. While it has to be borne in mind that landscaping and layout are Reserved Matters that will be subject to future applications, it is clear that the applicants have demonstrated to Natural England's satisfaction that the proposal will not, in principle, have a adverse impact on protected species or their habitats.

The impact on the water environment

Consideration has been given to the potential impact of the development on flooding and the surface and foul water systems.

In relation to flood risk, the applicants have submitted a Flood Risk assessment which has been considered by the Environment Agency. They have raised no objection and have recommended that two conditions should be imposed. One would require details of a scheme for the provision

of surface water run off limitation, incorporating sustainable drainage principles (SUDS) in accordance with the Flood Risk Assessment and the Agency have said that a legal agreement would have to be entered into securing the satisfactory long term operation and maintenance of the surface water drainage scheme. Environmental Health officers have raised similar comments.

The second recommended condition requires details of existing and proposed ground levels including overland flow routes and exceedence overflow protection, again in accordance with the Flood Risk Assessment and finished floor levels information.

Provided that these conditions are imposed, it is considered that there is no reason why the proposal would result in unacceptable flooding of the site or surrounding properties.

In relation to foul drainage, although the Parish Council have expressed concerns regarding the ability of the sewage system to cope, Wessex Water have advised that there is sufficient capacity within the existing system, and that there is also a planned increase in capacity for the treatment works. Therefore there is no reason to believe that sewage should form a reason to refuse permission.

The impact on neighbouring properties and within the site

Consideration has been given to the impact on neighbouring properties that are close to the site. The indicative layout submitted by the applicants shows that it is possible to achieve a 90-dwelling scheme that will not result in unacceptable overlooking to neighbouring properties on Hindon Lane, Weaveland Road or elsewhere.

Although the development will clearly result in an increase in noise and disturbance, both during construction and (in relation to traffic noise for example) subsequently, it is considered that this noise and disturbance would be controllable to generally-accepted levels through existing environmental health legislation and conditions in relation to hours of working and wheel wash facilities etc.

Concern has been raised at the positioning of the B1 (employment) units within the residential parts of the estate, rather than separately, with the potential for conflicts between the uses. Notwithstanding the fact that layout is a Reserved Matter, the Development Brief's materplan has always envisaged such 'intermingling' of uses.

B1 uses would consist of offices and/or light industry as opposed to the nosier B2 (heavy industry) uses, and are more likely to be accessed by smaller goods vans for services/deliveries etc, and experience of other developments (for example Poundbury) shows that such uses can be accommodated without causing harm to either occupiers.

The impact on archaeological features

The County Council archaeology department have commented that given the presence of Neolithic finds on the site and the size of the proposal, there is the potential to uncover further archaeological finds or sites in the area.

They recommend that an archaeological evaluation is carried out in accordance with PPG16 prior to the determining of the application. The evaluation would comprise several stages which are set out in the consultation response above. All the investigations would need to be part of a Written Scheme of Investigation approved by the County Council and followed by a report on the completion of the works.

They have advised that if significant archaeological features are identified on the site it may be necessary for the County to recommend that a modification to the layout of the site is required, or that further excavation will need to be specified by an appropriate planning condition, to be carried out prior to development.

Given that we are currently only considering an outline application, with layout reserved for future assessment, it is considered that this issue can be addressed at this stage by a condition requiring an archaeological investigation together with the WRI and subsequent report. If a

modification to the layout or further excavation is required this can be dealt with through the subsequent reserved matters application.

Education facilities

Policy H14 makes clear that provision should be made for the increased pressure on educational facilities that results from the proposed development.

For primary school provision the relevant Authority is Wiltshire County Council who operate the nearest primary school at St Johns in Tisbury. They have commented that this school is likely to have capacity for the additional need, which will probably be around 25 places, and that therefore there is not a need for a contribution at this stage.

Wiltshire County Council do say that this is an estimate based on the information provided at outline stage, and that this estimate could change once the details have been provided, as a result of further capacity assessments or changes, or as a result of other development proposals coming forward.

It could be argued that the determinants of a change in Wiltshire County Council's position on the need for a contribution are not ones that should require the developer to contribute more at a later stage. After all, planning permission is being granted for 90 dwellings now, so the capacity required should be judged on the current situation. Furthermore, the developer should only be expected to make a contribution based on the impact of the development proposed, not on other changes (such as other development in the area).

However, having taken legal advice, it is considered that the section 106 should include a requirement that need will be assessed at reserved matters stage, and a payment made in line with Wiltshire County Council's formula based on that need for that development.

In relation to secondary school provision the relevant Education Authority is Dorset County Council, with the nearest secondary school being Shaftesbury School, although some children do attend Gillingham School or a Grammar School on parental preference grounds.

Based on a response to the applicants by Dorset County Council in 2007, it is understood that Shaftesbury School currently has a limited amount of capacity in some year groups, although it was full in terms of admissions into Year Seven for September 2007. They also point out that the appeal decision to grant a new 600 – 700 house development on the eastern fringes of Shaftesbury means that any spare capacity was taken into account when considering that development.

Clearly a contribution will be required in relation to the Hindon Lane development, and the relevant S106 can set out the contribution to be paid, again based on Dorset County Council's formula. In 2007 this produced a figure of £475,719, but it is considered that the formula, rather than the figure, could be used so that the amount represents the need at the relevant time.

Contamination

There has been an initial concern that because the northern part of the site is in commercial use involving vehicle repairs and vehicle storage, there may be some contamination of land that would require remediation before residential use can be permitted.

The Environment Agency have reviewed the Interpretative Report on the Ground Investigation submitted with the application (report number 61383 dated February 2007), and consider the investigation carried out is not sufficient to determine whether contamination is present.

However, they have recommended a condition, to ensure a more thorough investigation of this area of the site, rather than recommend refusal of permission on this ground. Furthermore the Council's own Environmental Health Officers have not objected to the application because of potential contamination. It is therefore considered that, subject to the condition recommended, contamination should not be a reason to refuse planning permission.

The Phasing of Development

The Development Brief and the Local Plan policy requires that development is phased in a certain way, to ensure that all of the development is completed, rather than just those aspects which are most profitable to the developer.

In particular the Brief requires that the highway works (including traffic calming in Hindon Lane) are undertaken before the housing development is undertaken, and that no more than 50% of the houses are constructed until 50% of the employment buildings have been constructed and the swimming pool or other community uses made available.

The applicants have submitted a draft s106 which says that there no occupation of more than 60 dwellings until the first and second tranche of the B1-use land is constructed and made available for use with a further trigger at 80 dwellings for the third tranche.

The wording and details of the s106 should be left to officers to negotiate between officers and the developers, taking into account the Local Plan policy, Development Brief and comments already made (with any substantive disagreements possibly requiring a further report to committee). However, it is worth noting that, given that the applicant's suggested trigger is only after two-thirds of construction, rather than a maximum of the half-way stage envisaged by the Brief, the draft S106 will clearly be unacceptable in its current form.

Other factors

Some concern has been expressed locally that the undertaking of the development will result in noise and disturbance during construction. Some noise and disturbance is inevitable but this can be kept to a minimum both through the use of the planning condition recommended by Environmental Health officers and through separate controls available to the Council under environmental health legislation.

The Development Brief envisages some form of public art, in order to help give character and legibility to public realm treatment or spaces. This is very much a matter for subsequent consideration through the reserved matters application.

A number of concerns have been raised with regard to whether the development will adhere to high sustainable construction requirements etc. In relation to sustainable construction, the applicants have said (in their letter of 22nd August 2008) that they consider Level 3 of the Code for Sustainable Homes to be equivalent to the old 'very good' Ecohomes standard required by the Development Brief. Again this is a matter for the subsequent reserved matters applications.

The applicants go on to say that the affordable housing will be built to this (level 3) standard, while the open market elements will be built to the 'minimum mandatory' Code Level in force at the time. This may well not be sufficient (and no mention is made of the standard to which the employment development will be built) but again this is a matter for the subsequent reserved matters application.

One or two discrepancies have been pointed out in the application form by a local resident, but it is considered that these do not go to the 'heart' of the application and therefore do not make the application invalid. Finally, the comments from the Fire Authority are essentially relevant to the Building Regulations or to the future Reserved Matters application.

CONCLUSION

Subject to conditions and a legal agreement, the proposed development would be acceptable in principle and would not harm the character and appearance of the area, AONB or adjacent Conservation Area, highway safety, protected species, the water environment (drainage, flooding), neighbouring properties, archaeological features or any other material planning consideration. It would make adequate provision for employment provision, education, community facilities and public recreational open space. It would therefore comply with community facilities and public recreational open space. It would therefore comply with relevant saved policies of the Adopted Salisbury District Local Plan.

That outline planning permission should be GRANTED SUBJECT TO CONDITIONS and subject
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to delegation to the Head of Development Services to negotiate a suitable legal agreement under S106 of the Town and Country Planning Act 1990, in relation to the following issues:

RECOMMENDATION:

(a) Following completion of a S106 agreement to achieve the following within 3 months of the date of the resolution

1. The provision of public recreational open space
2. The provision of affordable housing
3. The phasing of development
4. The sum in relation to policy R4 (the 'community land') and R2 (public recreation facilities)
5. The provision of educational facilities
6. Travel Plan and requirements of the Highway Authority
7. Public art
8. The satisfactory long term operation and maintenance of the surface water drainage scheme
9. Landscape Management
10. A contribution in relation to bin storage and kerbside waste management facilities

(b) That the application be delegated to HDS to approve for the following reasons:

Reason for approval

Subject to conditions and a legal agreement, the proposed development would be acceptable in principle and would not harm the character and appearance of the area, AONB or adjacent Conservation Area, highway safety, protected species, the water environment (drainage, flooding), neighbouring properties, archaeological features or any other material planning consideration. It would make adequate provision for employment provision, education, community facilities and public recreational open space. It would therefore comply with the relevant saved policies of the Adopted Salisbury District Local Plan.

(C) And Subject to the following conditions:

(1) Approval of the details of the layout, scale, appearance of the buildings, and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the local planning authority in writing before any development is commenced.

Reason: This permission is in outline only and is granted under the provisions of Section 92 of the Town and Country Planning Act 1990 and Article 3(1) of the Town and Country Planning (General Development Procedure) Order, 1995.

(2) Plans and particulars of the reserved matters referred to in condition 2 above, relating to the layout, scale, appearance of the buildings, and the landscaping of the site shall be submitted in writing to the local planning authority and shall be carried out as approved.

Reason: This permission is in outline only and is granted under the provisions of Section 92 of the Town and Country Planning Act 1990 and Article 3(1) of the Town and Country Planning (General Development Procedure) Order, 1995.

(3) Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.

Reason: This permission is in outline only and is granted under the provisions of Section 92 of the Town and Country Planning Act 1990 and Article 3(1) of the Town and Country Planning (General Development Procedure) Order, 1995.

(4) The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Reason: This permission is in outline only and is granted under the provisions of Section 92 of the Town and Country Planning Act 1990 and Article 3(1) of the Town and Country Planning (General Development Procedure) Order, 1995.

(5) No development approved by this permission shall be commenced until details of a scheme for the provision of surface water run off limitation incorporating sustainable drainage principles (SUDS) in accordance with the Flood Risk Assessment Laurence Rae Associates Ltd Report No 2651 FRA 3 dated April 2008 has been submitted to and approved in writing by the local planning authority. The scheme shall be completed in accordance with the approved programme and details.

Reason: To prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal.

(6) No development approved by this permission shall be commenced until details of existing and proposed ground levels including overland flow routes and exceedence overflow protection in accordance with the Flood Risk Assessment Laurence Rae Associates Ltd Report No 2651 FRA 3 dated April 2008 and finished floor levels has been submitted to and approved in writing by the local planning authority. The scheme shall be completed in accordance with the approved programme and details.

Reason: To minimise flood risk to the development, neighbouring property and Hindon Lane.

(7) Prior to the commencement of development approved by this planning permission or such other date or stage in development as may be agreed in writing with the Local Planning Authority a scheme to deal with the risks associated with contamination of the site shall be submitted to and approved in writing by the local planning authority. That scheme shall include all of the following elements unless specifically excluded in writing by the Local Planning Authority:

1. A desk study identifying:
 - all previous uses;
 - potential contaminants associated with those uses;
 - a conceptual model of the site indicating sources pathways and receptors;
 - potentially unacceptable risks arising from contamination at the site.
2. A site investigation scheme based on 1 to provide information for an assessment of the risk to all receptors that may be affected including those off site;
3. The results of the site investigation and risk assessment 2 and a method statement based on those results giving full details of the remediation measures required and how they are to be undertaken;
4. A verification report on completion of the works set out in 3 confirming the remediation measures that have been undertaken in accordance with the method statement and setting out measures for maintenance further monitoring and reporting.

Any changes to these agreed elements require the express consent of the Local Planning Authority.

Reason: The site overlies Limestone & Sandstone of Tisbury Member geology which is a Primary/Major aquifer. The site investigation carried out identifies Area 1 in the North west of the site as having a potential for contamination due to its previous uses, however the site investigation supplied has only two trial pits from this location which are shallow and do not reach the base of the made ground. Contaminant levels in samples from these trial pits are above the levels found in the other areas of the site.

(8) No development approved by this permission shall be commenced until a Construction Environmental Management Plan incorporating pollution prevention measures has been submitted to and approved by the Local Planning Authority. The plan shall subsequently be implemented in accordance with the approved details and agreed timetable.

Reason: To prevent pollution of the water environment

(9) No development approved by this permission shall commence until a scheme for water efficiency has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the agreed details.

Reason: in the interests of sustainable development and prudent use of natural resources.

(10) Development shall not begin until details of the junction between the proposed service road and the highway have been approved in writing by the local planning authority; and no part of the development shall not be occupied until that junction has been constructed in accordance with the approved details.

Reason: in the interests of highway safety.

(11) Prior to the commencement of development details of the emergency access to Weaveland Road shall be submitted to and approved, in writing, by the Local Planning Authority. That access shall be constructed before the first occupation of the fiftieth residential dwelling hereby approved.

Reason: in the interests of highway safety

(12) The plans and particulars submitted in accordance with condition 13 above shall include details of the size, species, and positions or density of all trees to be planted, and the proposed time of planting.

Reason: in the interests of the character and appearance of the area

(13) Prior to the commencement of construction works a scheme for the washing of construction lorries' wheels upon leaving the site shall be submitted to and approved, in writing, by the Local Planning Authority. Construction works shall be undertaken in accordance with the approved details

Reason: in the interests of the amenities of nearby properties

(14) Prior to the commencement of development, details of the water and energy efficiency measures to be used in the proposed development shall be submitted to and approved in writing by the Local Planning Authority. Development shall be undertaken in accordance with the approved details.

Reason: in the interests of sustainable development

(15) The number of dwellings hereby approved shall not exceed 90 dwellings

Reason: For the avoidance of doubt; the decision has been taken on this number of units only

(16) This decision relates only to submitted plans numbered 2424/HA/1 (received on 26th August 2008) and LP.01 (received on 22 April 2008) only. Any other plans submitted, including in relation to the internal layout of development, were indicative only and have not been approved or endorsed by this decision.

Reason: For the avoidance of doubt

(17) The development hereby approved shall be undertaken in accordance with the recommendations of the submitted protected species surveys unless otherwise agreed in writing by the Local Planning Authority.

Reason: in the interests of protected species

(18) Construction works shall only take place during the following periods: Mondays to Fridays 7.00am to 6.00pm, Saturdays 7.00am to 1pm and not at all on Sundays.

Reason: in the interests of the amenities of nearby properties

(19) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order re-enacting or revoking that order) there shall be no extensions to the dwellings hereby approved, not any outbuildings erected within the curtilage, unless otherwise approved by the Local Planning Authority by means of a planning application.

Reason: in the interests of the character and appearance of the area

(20) No development shall commence until a detailed design of the access junction in the form of a mini-roundabout including footways, and bus stops and shelters on Hindon Lane, and the extension of the 30mph speed limit, all as illustrated on drawing number 2424/HA/1 has been submitted to and approved, in writing, by the Local Planning Authority. The access junction, footways and extension to the 30mph limit shall be constructed and provided in accordance with the approved details before the commencement of development (other than highway development approved through this condition). The approved bus shelters shall be provided before the first occupation of the development.

Reason: in the interests of highway safety and sustainable development

(21) Prior to the submission of any application in relation to any of the Reserved Matters in respect of, any part of the development there shall have been submitted to and approved in writing by the local planning authority a plan, of a scale previously approved in writing by the local planning authority for such purposes, showing:

- a) the location of all existing trees and hedgerows; and
 - b) any existing trees and hedgerows that will be retained as part of the development,
- ("the Existing Tree and Hedgerow Plan") .

Reason: in the interests of the character and appearance of the area

(22) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority.

Reason: in the interests of archaeology and cultural heritage

(23) In relation to all trees and hedges identified as being retained in the Existing Tree and Hedgerow Plan, prior to the commencement of any development there shall be submitted to and approved in writing by the local planning authority details:

- a) of the specification and position of fencing incorporating the proposed alignment of the fencing and any other measures to be taken that will be provided for the protection of all such trees and hedges from damage during the carrying out of any work in respect of the development;
 - b) of the time periods for the provision and retention of the fencing and other measures identified for the purposes of sub-paragraph (a); and
 - c) for the laying of such hedges or parts thereof in relation to a Development Parcel in advance of any part of the development being commenced on that Development Parcel,
- ("the Tree and Hedge Protection Details").

Reason: in the interests of the character and appearance of the area

(24) All trees and hedges which are identified as being retained in the Existing Tree and Hedgerow Plan shall at all times during the implementation of the development be protected, and in the case of hedges laid, in accordance with the Tree and Hedge Protection Details, provided that the Tree and Hedge Protection Details may be amended in accordance with details expressly submitted to and approved in writing by the local planning authority for such a purpose.

Reason: in the interests of the character and appearance of the area

(25) Prior the submission of any application in relation to any of the Reserved Matters in respect of, any part of the development details of the principles to be adopted in relation to all structural landscaping (both hard and soft) shall have been submitted to and approved in writing by the local planning authority which shall in particular include principles to be used in relation to:

- a) all means of enclosure of public space;
- b) pedestrian accesses and all circulation areas;
- c) refuse and any other storage areas;
- d) play areas;
- e) sustainable drainage;
- f) surfaces; and
- g) open spaces,

("the Landscaping Principles").

Reason: in the interests of the character and appearance of the area

(26) All landscaping provided in relation to the development shall be in accordance with the Landscaping Principles, provided that the Landscaping Principles may be amended in accordance with details expressly submitted to and approved in writing by the local planning authority for such a purpose.

Reason: in the interests of the character and appearance of the area

(27) Prior to both the commencement of, and the submission of any application in relation to any of the Reserved Matters in respect of, any part of the development a landscape management plan in respect of all hard and soft open, play and other spaces shall be submitted to and approved in writing by the local planning authority which shall in particular:

- a) include long term design objectives (i.e. for a period covering at least ten years from completion of the development);
- b) include management responsibilities;
- c) include maintenance provisions;
- d) include details identifying the phased implementation and establishment of the landscaping as part of the development;
- e) include details for the replacement of any tree, hedge and any other planting in the event of the same being removed, dying or becoming seriously diseased or damaged, within the period of five years following the completion of the tree, hedge or other planting (as the case may be) requiring replacement is situated;
- f) include details of the time period(s) within which any tree, hedge or other planting (as the case may be) to which sub-paragraph (e) above relates will be replaced;

- g) accord with the Landscaping Principles, and
- h) only include site layout drawings which are of a scale that has previously been approved by the local planning authority in writing in advance of such details being submitted,

("the Landscape Management Plan").

Reason: in the interests of the character and appearance of the area

(28) The development shall only be implemented in accordance with the Landscape Management Plan; and landscaping once provided shall at all times thereafter be managed and maintained (and where relevant replaced) in accordance with the Landscape Management Plan, provided that the Landscape Management Plan may be amended in accordance with details expressly submitted to and approved in writing by the local planning authority for such a purpose.

Reason: in the interests of the character and appearance of the area

(29) Prior to the submission of any application in relation to any of the Reserved Matters in respect of, any part of the development there shall be submitted to and approved in writing by the local planning authority a design code including a comprehensive master plan for the whole of the development which sets out:

- a) block layouts;
- b) movement linkages;
- c) disposition and hierarchy of public spaces and the "total Open Space Provision";
- d) principles of sustainable design to be applied to development;
- e) architectural treatment of all structures; including the range of external materials;
- f) the interrelationship between built forms and landscape to include an assessment of views into and out of the Site;
- g) highway treatment;
- h) principles for the design and general location of furniture for streets and all other public areas including seats, shelters, refuse receptacles and cycle parking shelters;
- i) principles for the provision of and locating of all external storage facilities to serve the buildings permitted by the development;
- j) lighting; and
- k) public art,

("the Design Code").

Reason: in the interests of the character and appearance of the area

(30) The development shall only be implemented in accordance with the Design Code, provided that the Design Code may be amended in accordance with a detailed design justification for any changes that may be expressly submitted to and approved in writing by the local planning authority for such a purpose.

Reason: in the interests of the character and appearance of the area

(31) No Reserved Matters application shall be submitted to the local planning authority unless it is accompanied by a statement identifying how any design proposals contained within that Reserved Matters application accords with the Design Code.

Reason: in the interests of the character and appearance of the area

(32) Prior to any part of the development being commenced, details of all lighting proposals shall be submitted to and approved in writing by the local planning authority which shall in particular include:

- a) street lighting including lighting for all carriageways, roads, cycleways, footways, footpaths and turning spaces;
- b) lighting of communal parking areas and all other publicly accessible areas;
- c) the proposed intensity of the lighting;
- d) the design of light columns; and
- e) a lighting contour plan

Development shall only be implemented in accordance with the details that have been approved by the local planning authority unless otherwise agreed, in writing, by the local planning authority.

Reason: in the interests of the character and appearance of the area

(33) No building within the site shall exceed 2.5 stories in height.

Reason: in the interests of the character and appearance of the area.

(34) Prior to any part of the development shall be commenced, plans and sections of a scale not less than 1:200 showing the level of the finished floor slab of every building in relation to Ordnance Datum shall be submitted to and approved in writing by the local planning authority. Development shall only be implemented in accordance with the Floor Level Details that have been approved by the local planning authority.

Reason: in the interests of the character and appearance of the area.

INFORMATIVES – THIS DECISION

This decision has been taken in accordance with the following saved policies of the Development Plan:

Adopted Salisbury District Local Plan 2003 (saved policies)

H14	Land at Weaveland Road, Tisbury (housing)
E14A	Land at Weaveland Road, Tisbury (employment)
G1, G2	General Development Criteria
G5	Water Supply and Drainage
G6	Sustainable Development
G9	Planning Obligations
D1	Extensive Development Proposals
D6	Pedestrian Access and Permeability
D7	Site Analysis
D8	Public Art
H25	Affordable Housing
TR1	Sustainable Transportation
TR11	Parking Standards
TR12	Sustainable links in Development
TR13	Footpath Improvement
TR14	Cycle Parking
R2	Recreational Open Space
R4	Provision of contribution to indoor leisure facilities
R17	Public Rights of Way
C4, C5	Development in the AONB

C12 Protected species

Adopted Wiltshire Structure Plan 2006

DP1 Pursuit of Sustainable Development

Supplementary Planning Guidance

Creating Places
Sustainable Development
Affordable Housing

Adopted Development Brief

Development Brief, Hindon Lane, Tisbury – December 2006

Government Guidance
PPS7, PPS1, PPS9, PPS22, circulars 11/95, 01/2005

INFORMATIVES – ENVIRONMENT AGENCY ADVICE

Pollution prevention during construction

Safeguards should be implemented during the construction phase to minimise the risks of pollution and detrimental effects to the water interests in and around the site. Such safeguards should cover the use of plant and machinery, oils, chemicals and materials, the use and routing of heavy plant and vehicles, the location and form of work and storage areas and compounds, and the control and removal of spoil and wastes.

The development should include water efficient appliances, fittings and systems in order to contribute to reduced water demand in the area. These should include, as a minimum, dual flush toilets, water butts, spray taps, low flow showers, no power showers and white goods, where installed, with the maximum water efficiency rating. Greywater recycling and rainwater harvesting should be considered. We would be happy to provide further advice when the applicant is designing the scheme.

(5) Sustainable building and construction

It is recommended that the proposed development includes sustainable design and construction measures which comply with the Code for Sustainable Homes. The development should aim to achieve the highest number of stars possible preferably six. The applicant is advised to visit <http://www.communities.gov.uk/publications/planningandbuilding/codesustainabilitystandards> for detailed advice on how to comply with the Code. It includes sections on energy and water efficiency and is compulsory for all housing from May 2008.

In a sustainable building minimal natural resources and renewables are used during construction and the efficient use of energy is achieved during subsequent use. This reduces greenhouse gas emissions and helps to limit and adapt to climate change. Running costs of the building can also be significantly reduced.

INFORMATIVES – AFFORDABLE HOUSING

The applicant is advised that, in relation to the subsequent Reserved Matter applications, the latest Housing Needs Study 2006 identifies the housing mix that should be delivered for both market housing and affordable housing. Within the Tisbury or Nadder Valley community area, the following splits have been identified as needed:

Market Housing:

1 bed 4%
2 bed 10%
3 bed 47%
4+ bed 39%

Affordable housing

1 Bed 36%
2 Bed 28%
3+ Bed 36%

Of the Affordable rent 50% should be 1 bed and 50% should be 2 bed. Of the shared ownership 30% should be 1 bed, 16% should be 2 bed and 56% should be 3+ bed.

(d) Should the S106 agreement not be completed until the period specified in (a) above – then the decision is delegated to the HDS to refuse for reasons of Loss of public open space (compliance with R2), Lack of affordable housing, inadequate travel planning, highway safety, inadequate access, surface water drainage, unsatisfactory phasing of development

Application Number:	S/2008/1590		
Applicant/ Agent:	BRIMBLE LEA & PARTNERS		
Location:	THE BOARDROOM HOUSE THE SQUARE MERE WARMINSTER BA126DL		
Proposal:	CARRY OUT ALTERATIONS AND EXTENSION AND CONVERSION OF BUILDING TO 5 FLATS AND A MAISONETTE		
Parish/ Ward	MERE		
Conservation Area:	MERE	LB Grade:	II
Date Valid:	16 September 2008	Expiry Date	11 November 2008
Case Officer:	Charlie Bruce-White	Contact Number:	01722 434682

REASON FOR REPORT TO COMMITTEE

Cllr Jeans has requested that the application be determined by the committee in order to consider the potential parking implications and loss of retail function resulting from the development.

SITE AND ITS SURROUNDINGS

The site relates to the Boardroom House, situated on The Square within the centre of Mere. The building is grade II listed and is within the Conservation Area and Housing Policy Boundary.

Currently the ground floor has an authorised retail use, with the first and second floors being used as two residential flats. The site includes a modest courtyard area to the rear, which can be accessed from North Street.

THE PROPOSAL

It is proposed to convert the building to 6 residential units (3 one bed units and 3 two bed units), which includes internal alterations (subject to an associated LBC) and rear extensions and alterations.

PLANNING HISTORY

99/1196	Removal of metal sheet roofing to part of The Walton building and recover in natural slate demolish lean-to outhouse at the rear of 1 2 and 3 The Square	AC	10.09.99
91/1489	Change of use of part to bakery and change of use of part to tea room	AC	02.01.92

CONSULTATIONS

Conservation Officer	No objection subject to conditions.
Highways Officer	On the basis of the submitted details, including that the proposed development is not new build but involves the redevelopment of an existing Grade II listed building, I would not wish to raise a highway objection to the level of parking proposed or to the layout generally and recommend that no highway objection be raised to this application.

REPRESENTATIONS

Advertisement	Yes
Site Notice displayed	Yes
Western Area Committee 11/12/2008	

Departure	No
Neighbour notification	Yes
Third Party responses	3 letters of objection. Reasons include: <ul style="list-style-type: none"> • Loss of shop; • Over provision of flats; • Lack of car parking provision; • Proposed parking spaces may have an intrusive impact upon neighbouring property; • Cramped and difficult living conditions for future occupiers; • Poorly lit lobbies and corridors internal spaces.
Parish Council response	Object. Reasons include: <ul style="list-style-type: none"> • Loss of ground floor as a potential retail unit; • Lack of car parking provision; • Development would create cramped and restricted living accommodation; • Extension to building at the rear would affect the amenity of existing neighbouring properties.

MAIN ISSUES

1. The acceptability of the proposal given the policies of the Local Plan;
2. Vitality and viability of Mere;
3. Character of the listed building;
4. Character of the Conservation Area and amenity of the street scene;
5. Highways safety;
6. Impact upon neighbour amenity & quality of living environment for future occupiers
7. Policy R2

POLICY CONTEXT

- Local Plan G1, G2, H16, E16, CN3, CN4, CN8, CN11, CN13, TR11, TR14, R2, PS3
- PPS3: Housing; PPS6: Town Centres; PPG13: Transport; PPG15: Historic Environment

PLANNING CONSIDERATIONS

Loss of retail premises

The following policies are applicable to the change of use of a retail premises:

- Policy G1(ii) seeks to promote the vitality and viability of local communities.
- Policy PS3 seeks to retain premises in settlements that have been used for retailing unless the applicant can prove that the use is no longer viable.
- Policy E16 states that the change of use or redevelopment of premises for other (non-employment related) purposes will only be permitted where:
 - the proposed development is an acceptable alternative use that provides a similar number and range of jobs; or
 - the land or premises are no longer viable for an employment generating use; and/or

- redevelopment of the site for a non-employment use would bring improvements to the local environment or conservation benefits that would outweigh the loss of local jobs.

The supporting text to policy E16 clarifies that retail uses can make an important contribution to employment opportunities, and therefore the policy is not exclusively concerned with B1, B2, B8 uses.

It is suggested within the listing details of the building that its original function was probably as a house or inn, and research by the applicant also points to the building being used as a boardroom and offices. More recently, the ground floor has been in a variety of retail uses over the course of at least 20 years, including most recently as a charity shop. The ground floor has remained vacant, however, for a couple of years now.

Policy PS3 is a key policy since it specifically refers to retail premises and includes a presumption for their retention unless it can be proved that the use is no longer viable. It is noted that the applicant has not provided any such evidence. The Parish Council also point to local support for retail facilities within the town. However, the applicant notes that other material considerations should be borne in mind in this case, namely the conservation benefits that would arise through the proposal. Indeed, policy E16 makes specific reference to this issue.

The existing building is of high conservation value, and makes a particularly important contribution to the character of the centre of Mere. However, it is clearly in need of significant renovation works, and the deterioration of its condition, which is comprehensively detailed in the submitted survey, is becoming evident from its main front elevation, and will only worsen over time while not in use. The Council's Conservation Officer further confirms that the building is in "urgent need of sensitive repairs and re-use". The applicant has provided a detailed method statement for its renovation, and the proposed work to the stone of the building is to be particularly welcomed. The cost of such works would inevitably be high, and a residential use would be better able to bear such costs, including those of maintaining such a listed building in the future.

The applicant also cites the additional support given within PPG15 for the reinstatement of original uses of listed buildings, and it is agreed that this is relevant to this development. One of the special interests of the listed building is the appearance of its front elevation, which has probably changed little since it was built and provides no visual cues, such as a shopfront, that the ground floor has been in use as a shop. Most retail uses would reasonably require some form of advertising or display windows and it is considered that the building's character would be particularly affected by any such alterations. Furthermore, the proposed internal alterations to the ground floor would re-introduce partitions which would be more characteristic of its original layout. Such a partitioned layout would be unlikely to suit a retail use.

A final consideration is that the premises have been vacant for a number of years, and given the existing retail mix within Mere, which is well catered for in relation to its size and rural location, it is doubtful how significant this individual unit is to the settlement's overall vitality and viability. Finding a new use for an underutilised property that would result in conservation benefits and improvements to a listed building would in itself contribute to sustainability objectives and the overall vitality and viability of the town.

Impact upon character listed building and character of conservation area

Front elevation

This elevation would be improved by the repair of existing stonework which would undoubtedly enhance the character of the Conservation Area.

Rear elevation

More significant alterations are proposed to this elevation, notably including the extension of a two storey rear wing by raising its eaves and extending its footprint further back; the formation of a pitched roof to an existing flat roof area; and alterations to the rear courtyard area. Overall the proposals are considered to respect the existing character of this elevation, and the Conservation Officer raises no objection to the proposal subject to a number of conditions.

Impact upon amenity of neighbours and future occupiers

It is considered that the increased bulk of the extensions would not be so significant so as to affect neighbouring properties in terms of any significant overbearing or overshadowing impact. There would be an extent of additional overlooking from two new windows in the east elevation of the rear wing, although one of these windows would serve a bathroom in any case, and it is noted that such mutual overlooking would not be unusual in this urban environment.

Concern has been expressed by a third party, living immediately adjacent to the site, that the parking of vehicles in the two proposed parking spaces could cause disturbance given their proximity to his front door. Whilst this proximity is noted, it is also relevant that this area could be used as such at present, including for the purposes of delivery vehicles associated with any retail use, which has the potential to be more disruptive. Consequently it is not considered that this issue would make the application unacceptable.

A condition imposing restricted hours of construction is considered reasonable in this case, however, given the proximity to a number of neighbouring properties.

The size of rooms within the residential units is considered to be reasonable, and in most cases the main living spaces would be quite generous. It is noted that certain corridors and staircases would not benefit from much natural light, although this is not unusual, and does not impact upon the main habitable spaces which would be well lit.

Highways implications

Concern has been expressed by both the Parish Council and third parties over the limited parking provision for the proposed development. This would comprise two parking spaces for six residential units, which is some way short of the maximum number of spaces that could be permitted within the Local Plan guidelines. However, a reduction in maximum parking standards in sustainable locations is precisely what the Government had in mind in national policies and guidance issued over recent years, in order to discourage car ownership in such location, and hence no objection is raised by the highways authority.

Policy R2

The proposal is for new residential units and policy R2 therefore applies

Conclusion

Whilst in conflict with policy PS3 of the Local Plan, it is considered that there are significant other material considerations, including benefits to the listed building and guidance contained within PPG15, which allow for the loss of the retail element of the building in this case. The new residential use would be acceptable in principle, and the proposed works would respect the special interests of the listed building and enhance the character of the Conservation Area. There would be no significant impact upon the amenities of neighbours, and the proposed level of parking provision would not be in conflict with local or national planning guidance given the site's sustainable location. The development would therefore accord with the general aims of the Development Plan and Government guidance.

RECOMMENDATION:

(a) Following completion of a unilateral undertaking for recreational open space in accordance with policy R2, within one month of the date of the resolution.

(b) APPROVE for the following reasons:

Whilst in conflict with policy PPS3 of the Local Plan, it is considered that there are significant other material considerations, including benefits to the listed building and guidance contained within PPG15, which allow for the loss of the retail element of the building in this case. The new residential use would be acceptable in principle, and the proposed works would respect the special interests of the listed building and enhance the character of the Conservation Area.

There would be no significant impact upon the amenities of neighbours, and the proposed level of parking provision would not be in conflict with local or national planning guidance given the site's sustainable location. The development would therefore accord with the general aims of the Development Plan and Government guidance.

(b) Recommended to APPROVE for the following reasons:

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.
- 2) Before development is commenced, a schedule of external facing materials shall be submitted, and, where so required by the Local Planning Authority, sample panels of the external finishes shall be constructed on the site and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 3) Before development is commenced, further details of the hard landscaping of the site shall be submitted to and agreed in writing by the Local Planning Authority. This shall include details of material surface treatments and the appearance of the bike store and retaining wall/railings, including elevation drawings where so required. Development shall be carried out in accordance with the approved details prior to the first occupation of the residential units hereby permitted.
- 4) No construction or demolition work shall take place on Sundays or public holidays or outside the hours of 0800 to 1800 weekdays and 0800 to 1300 on Saturdays. This condition shall not apply to the internal fitting out of the buildings.

The reason for the above condition is listed below:

- 1) To comply with the provisions of Section 91 of the Town and Country Planning Act 1990. As amended by Section 51 (1) of the Planning and Compulsory Purchase Act 2004.
- 2) To secure a harmonious form of development in the interests of the listed building and character of the conservation area.
- 3) To secure a harmonious form of development in the interests of the character of the listed building and conservation area.
- 4) In the interests of amenity of nearby property.

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

Policy G1	Sustainable development
Policy G2	General Development Guidance
Policy H16	Housing Policy Boundaries
Policy E16	Change of use of employment premises
Policy CN3	Listed buildings
Policy CN4	Change of use of buildings in Conservation Areas
Policy CN8	Conservation Areas
Policy CN11	Conservation Areas
Policy CN13	Shopfronts in Conservation Areas
Policy TR11	Car parking
Policy TR14	Cycle parking
Policy R2	Recreational Open Space
Policy PS3	Change of use of retail premises

(c) Should the S106 unilateral undertaking not be completed within the timescale specified (a) above, the decision be delegated to the HDS to refuse on the grounds of loss of recreational open space (non compliance with R2)

Application Number:	S/2008/1591		
Applicant/ Agent:	BRIMBLE LEA & PARTNERS		
Location:	THE BOARDROOM HOUSE THE SQUARE MERE WARMINSTER BA126DL		
Proposal:	CARRY OUT ALTERATIONS AND EXTENSION AND CONVERSION OF BUILDING TO 5 FLATS AND A MAISONETTE		
Parish/ Ward	MERE		
Conservation Area:	MERE	LB Grade:	II
Date Valid:	16 September 2008	Expiry Date	11 November 2008
Case Officer:	Charlie Bruce-White	Contact Number:	01722 434682

REASON FOR REPORT TO COMMITTEE

This application for listed building consent is being considered in association with a planning application that Cllr Jeans has requested be determined by the committee in order to consider the potential parking implications and loss of retail function resulting from the development.

SITE AND ITS SURROUNDINGS

The site relates to the Boardroom House, situated on The Square within the centre of Mere. The building is grade II listed and is within the Conservation Area and Housing Policy Boundary.

Currently the ground floor has an authorised retail use, with the first and second floors being used as two residential flats. The site includes a modest courtyard area to the rear, which can be accessed from North Street.

Details of the listing area as follows:

House or Inn at Street frontage, now commercial premises. Early to mid C18. Large squared coursed limestone block, plain tile roof. A bold symmetrical front with through—way in further bay to left; deep wing back, right. Main front is 2 storeys and attic, 4 windows. Ground floor has central Palladian opening with glazed door flanked by 6—pane side lights; opening has 4 Doric pilasters to small entablature and central moulded arch to key stone. This flanked by 2—storey canted 1:2:1—light flat—roofed bay windows with plate glass, flush stone mullions. Far left is elliptical arched through—way with flat pilasters to impostes and bases. First floor has central near—square 4—pane sash in moulded architrave, flanked by the canted bays with glazing bar sashes, all to a weathered string course running the full width of the building. Four C20 flat—roofed 2—light dormers. Brick stack to right. Wing at back, Nos 2 and 3, various 2—light casements and a flat—roofed dormer. In the opening to the left of the frontage, a good pair of iron gates with spear head to main and to dog bars.

THE PROPOSAL

It is proposed to convert the building to 6 residential units (subject to an associated planning application), which includes internal alterations and rear extensions and alterations.

PLANNING HISTORY

99/1196	Removal of metal sheet roofing to part of The Walton building and recover in natural slate demolish leanto outhouse at the rear of 1 2 and 3 The Square	AC	10.09.99
91/1489	Change of use of part to bakery and change of use of part to tea room	AC	02.01.92

CONSULTATIONS

Conservation Officer No objection subject to conditions.

REPRESENTATIONS

Advertisement	Yes
Site Notice displayed	Yes
Departure	No
Neighbour notification	Yes

Third Party responses 2 letters of objection. Reasons include:

- Loss of shop;
- Over provision of flats;
- Lack of car parking provision;
- Proposed parking spaces may have an intrusive impact upon neighbouring property.

Parish Council response Object. Reasons include:

- Loss of ground floor as a potential retail unit;
- Lack of car parking provision;
- Development would create cramped and restricted living accommodation;
- Extension to building at the rear would affect the amenity of existing neighbouring properties.

MAIN ISSUES

1. The acceptability of the proposal given the policies of the Local Plan;
2. Character of the listed building and Conservation Area.

POLICY CONTEXT

- Local Plan CN3, CN4, CN8, CN11, CN13
- PPG15: *Historic Environment*

PLANNING CONSIDERATIONS

Impact upon listed building and character of conservation area

Front elevation

This elevation would be improved by the repair of existing stonework which would undoubtedly enhance the character of the Conservation Area.

Rear elevation

More significant alterations are proposed to this elevation, notably including the extension of a two storey rear wing by raising its eaves and extending its footprint further back; the formation of a pitched roof to an existing flat roof area; and alterations to the rear courtyard area. Overall the proposals are considered to respect the existing character of this elevation, and the Conservation Officer raises no objection to the proposal subject to a number of conditions.

Internal alterations

Although the Conservation officer notes that some compromises are involved within the new layout, on balance the proposal is considered to be acceptable in listed building terms, subject to conditions.

REASONS FOR APPROVAL:

The proposed works would respect the special interests of the listed building and would enhance the character of the Conservation Area. The development would therefore accord with the general aims of the Development Plan and Government guidance.

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.
- 2) Before development is commenced, a schedule of external facing materials shall be submitted, and, where so required by the Local Planning Authority, sample panels of the external finishes shall be constructed on the site and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 3) Before development is commenced, details of all new rainwater goods to be used on the approved development shall be submitted to, and approved in writing by, the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 4) Before development is commenced, details of all new windows and doors shall be submitted to and approved in writing by the Local Planning Authority. Detailed sections and elevations of all new windows, including any rooflights, shall be submitted to at least 1:5 scale, and large scale elevations of all new doors shall be submitted to at least 1:10 scale. Development shall be carried out in accordance with the approved details.
- 5) Timber flooring to the interior of the building shall be retained/renewed in accordance with details to be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. Development shall be carried out in accordance with the approved details.
- 6) The new ground and first floor ceilings shall be lathe and plaster in accordance with details to be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. Development shall be carried out in accordance with the approved details.

The reason for the above condition is listed below:

- 1) To comply with the provisions of Section 91 of the Town and Country Planning Act 1990. As amended by Section 51 (1) of the Planning and Compulsory Purchase Act 2004.
- 2) To secure a harmonious form of development in the interests of the listed building and character of the conservation area.
- 3) To secure a harmonious form of development in the interests of the listed building and character of the conservation area.
- 4) To secure a harmonious form of development in the interests of the listed building and character of the conservation area.
- 5) In the interests of the character and historic fabric of the listed building.
- 6) In the interests of the character and historic fabric of the listed building.

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

Policy CN3	Listed buildings
Policy CN4	Change of use of buildings in Conservation Areas
Policy CN8	Conservation Areas
Policy CN11	Conservation Areas
Policy CN13	Shopfronts in Conservation Areas

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Democratic Services
Salisbury District Council
PO Box 2117
Salisbury, Wiltshire SP2 2DF

Officer to contact: Tom Bray
Direct line: 01722 434252
Fax: 01722 434478
Email: tbray@salisbury.gov.uk
Web: www.salisbury.gov.uk

Minutes

Meeting of : Western Area Committee
Meeting held in : Dinton Village Hall, Dinton
Date : Thursday 11 December 2008
Commencing at : 4.30 pm

Present:

District Councillors:

Councillor J A Green – Chairman
Councillor E R Draper – Vice-Chairman

R A Beattie, P D Edge, M Fowler, J Holt, G E Jeans, D O Parker and C A Spencer

Apologies: Councillor J A Cole-Morgan,

Officers: A Bidwell, O Marigold, B Hatt (Development Services), L James (Legal & Property Services), P Trenell (Democratic Services) and R Harris (Wiltshire County Council Highways)

219. Public Questions/Statement Time:

There were none.

220. Councillor Questions/Statement Time:

Councillor Fowler referred to the closure of the A303 and remarked that it was unfortunate that it was not being widened to a dual carriageway as part of the works. Councillor Jeans stated that the closure of the A303 would lead to extra traffic on the smaller roads in the area. The committee felt that extra gritting would be necessary on these roads in cold weather and were keen to ensure that the cost of any damage to local roads as a result of the A303 closure was met by the Highways Agency and not the local taxpayer.

Resolved: That the committee write a letter to the Highways Agency expressing the points above.

NB – Since the meeting The Highways Agency have announced a review of the roadwork referenced above, meaning that the improvement project will not commence in February. As a result, no further letter is to be sent from the Western Area Committee until details of the revised project are announced.



Awarded in:
Housing Services
Waste and Recycling Services



221. Minutes:

Resolved: that the minutes of the ordinary meeting held on 13 November 2008 be approved as a correct record and signed by the Chairman.

222. Declarations of Interest:

There were none.

223. Chairman's Announcements:

Councillor Green:

- announced her disappointment that Broad Chalke Post Office was to move to a reduced hour outreach service;
- confirmed that the committee were still awaiting a response to their letter to the Highways Agency regarding the A303;
- expressed concern at a recent spate of burglaries in the western area, particularly targeting outbuildings, and urged those present to be vigilant.

NB – Since the meeting The Highways Agency have responded to the Chairman's letter please contact the clerk if you require a copy.

224. Planning Application S/2008/0779 Mixed Use Development of Land to Compromise Around 90 Dwellings and 3800 Square Metres of B1 Business Floorspace (Including Associated Highway Infrastructure) and Landscaping for Mr David Lohfink at Land Off Hindon Lane Tisbury:

The committee considered a presentation from the Planning Officer in conjunction with the previously circulated report, information contained in the schedule of additional correspondence circulated at the meeting and a site visit. Mr Hannis, of Wiltshire County Council Highways was also on hand to answer questions relating to highway issues.

Mrs J Ings, Mrs L Nunn, Mr J Young, Mr C Berkshire, Mr A Carter and Mr Berkley-Matthews and Mrs I Lacey spoke in objection to the application. Mr R Dearden addressed the committee on behalf of Tisbury Parish Council.

Resolved:

(1) Following completion of a S106 agreement to achieve the following within 3 months of the date of the resolution:

1. The provision of public recreational open space
2. The provision of affordable housing
3. The phasing of development
4. The sum in relation to policy R4 (the 'community land') and R2 (public recreation facilities). A further planning application will be required (and will need to have been approved) in relation to the off-site public recreational open space.
5. The provision of educational facilities
6. Travel Plan and requirements of the Highway Authority
7. Public art
8. The satisfactory long term operation and maintenance of the surface water drainage scheme
9. Landscape Management
10. A contribution in relation to bin storage and kerbside waste management facilities

(2) That the application be delegated to HDS to approve for the following reasons:

Subject to conditions and a legal agreement, the proposed development would be acceptable in principle and would not harm the character and appearance of the area, AONB or adjacent Conservation Area, highway safety, protected species, the water environment (drainage, flooding), neighbouring properties, archaeological features or any other material planning consideration. It would make adequate provision for employment provision, education, community facilities and public recreational open space. It would therefore comply with the relevant saved policies of the Adopted Salisbury District Local Plan.

And subject to the following conditions:

(1) Approval of the details of the layout, scale, appearance of the buildings, and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the local planning authority in writing before any development is commenced.

Reason: This permission is in outline only and is granted under the provisions of Section 92 of the Town and Country Planning Act 1990 and Article 3(1) of the Town and Country Planning (General Development Procedure) Order, 1995.

(2) Plans and particulars of the reserved matters referred to in condition 2 above, relating to the layout, scale, appearance of the buildings, and the landscaping of the site shall be submitted in writing to the local planning authority and shall be carried out as approved.

Reason: This permission is in outline only and is granted under the provisions of Section 92 of the Town and Country Planning Act 1990 and Article 3(1) of the Town and Country Planning (General Development Procedure) Order, 1995.

(3) Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.

Reason: This permission is in outline only and is granted under the provisions of Section 92 of the Town and Country Planning Act 1990 and Article 3(1) of the Town and Country Planning (General Development Procedure) Order, 1995.

(4) The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Reason: This permission is in outline only and is granted under the provisions of Section 92 of the Town and Country Planning Act 1990 and Article 3(1) of the Town and Country Planning (General Development Procedure) Order, 1995.

(5) No development approved by this permission shall be commenced until details of a scheme for the provision of surface water run off limitation incorporating sustainable drainage principles (SUDS) in accordance with the Flood Risk Assessment Laurence Rae Associates Ltd Report No 2651 FRA 3 dated April 2008 has been submitted to and approved in writing by the local planning authority. The scheme shall be completed in accordance with the approved programme and details.

Reason: To prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal.

(6) No development approved by this permission shall be commenced until details of existing and proposed ground levels including overland flow routes and exceedence overflow protection in accordance with the Flood Risk Assessment Laurence Rae Associates Ltd Report No 2651 FRA 3 dated April 2008 and finished floor levels has been submitted to and approved in writing by the local planning authority. The scheme shall be completed in accordance with the approved programme and details.

Reason: To minimise flood risk to the development, neighbouring property and Hindon Lane.

(7) Prior to the commencement of development approved by this planning permission or such other date or stage in development as may be agreed in writing with the Local Planning Authority a scheme to deal with the risks associated with contamination of the site shall be submitted to and approved in writing by the local planning authority. That scheme shall include all of the following elements unless specifically excluded in writing by the Local Planning Authority:

1. A desk study identifying:
 - all previous uses;
 - potential contaminants associated with those uses;

- a conceptual model of the site indicating sources pathways and receptors;
 - potentially unacceptable risks arising from contamination at the site.
2. A site investigation scheme based on 1 to provide information for an assessment of the risk to all receptors that may be affected including those off site;
 3. The results of the site investigation and risk assessment 2 and a method statement based on those results giving full details of the remediation measures required and how they are to be undertaken;
 4. A verification report on completion of the works set out in 3 confirming the remediation measures that have been undertaken in accordance with the method statement and setting out measures for maintenance further monitoring and reporting.

Any changes to these agreed elements require the express consent of the Local Planning Authority.

Reason: The site overlies Limestone & Sandstone of Tisbury Member geology which is a Primary/Major aquifer. The site investigation carried out identifies Area 1 in the North west of the site as having a potential for contamination due to its previous uses, however the site investigation supplied has only two trial pits from this location which are shallow and do not reach the base of the made ground. Contaminant levels in samples from these trial pits are above the levels found in the other areas of the site.

- (8) No development approved by this permission shall be commenced until a Construction Environmental Management Plan incorporating pollution prevention measures has been submitted to and approved by the Local Planning Authority. The plan shall subsequently be implemented in accordance with the approved details and agreed timetable.

Reason: To prevent pollution of the water environment

- (9) Prior to the commencement of development details of the emergency access to Weaveland Road shall be submitted to and approved, in writing, by the Local Planning Authority. That access shall be constructed before the first occupation of the fiftieth residential dwelling hereby approved.

Reason: in the interests of highway safety

- (10) Prior to the commencement of construction works a scheme for the washing of construction lorries' wheels upon leaving the site shall be submitted to and approved, in writing, by the Local Planning Authority. Construction works shall be undertaken in accordance with the approved details.

Reason: in the interests of the amenities of nearby properties

- (11) Prior to the commencement of development, details of the water and energy efficiency measures to be used in the proposed development shall be submitted to and approved in writing by the Local Planning Authority. Development shall be undertaken in accordance with the approved details.

Reason: in the interests of sustainable development.

- (12) The number of dwellings hereby approved shall not exceed 90 dwellings.

Reason: For the avoidance of doubt; the decision has been taken on this number of units only.

- (13) This decision relates only to submitted plans numbered 2424/HA/1 (received on 26th August 2008) and LP.01 (received on 22 April 2008) only. Any other plans submitted, including in relation to the internal layout of development, were indicative only and have not been approved or endorsed by this decision.

Reason: For the avoidance of doubt

(14) The development hereby approved shall be undertaken in accordance with the recommendations of the submitted protected species surveys unless otherwise agreed in writing by the Local Planning Authority.

Reason: in the interests of protected species

(15) Construction works shall only take place during the following periods: Mondays to Fridays 7.00am to 6.00pm, Saturdays 7.00am to 1pm and not at all on Sundays.

Reason: in the interests of the amenities of nearby properties

(16) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order re-enacting or revoking that order) there shall be no extensions to the dwellings hereby approved, not any outbuildings erected within the curtilage, unless otherwise approved by the Local Planning Authority by means of a planning application.

Reason: in the interests of the character and appearance of the area

(17) No development shall commence until a detailed design of the access junction in the form of a mini-roundabout including footways, and bus stops and shelters on Hindon Lane, and the extension of the 30mph speed limit, all as illustrated on drawing number 2424/HA/1 has been submitted to and approved, in writing, by the Local Planning Authority. The access junction, footways and extension to the 30mph limit shall be constructed and provided in accordance with the approved details before the commencement of development (other than highway development approved through this condition). The approved bus shelters shall be provided before the first occupation of the development.

Reason: in the interests of highway safety and sustainable development

(18) As part of the submission of any application in relation to any of the Reserved Matters there shall be submitted to and approved in writing by the local planning authority a plan, of a scale previously approved in writing by the local planning authority for such purposes, showing:

- (a) the location of all existing trees and hedgerows; and
- (b) any existing trees and hedgerows that will be retained as part of the development,

("the Existing Tree and Hedgerow Plan") .

Reason: in the interests of the character and appearance of the area

(19) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority.

Reason: in the interests of archaeology and cultural heritage

(20) In relation to all trees and hedges identified as being retained in the Existing Tree and Hedgerow Plan, prior to the commencement of any development there shall be submitted to and approved in writing by the local planning authority details:

- (a) of the specification and position of fencing incorporating the proposed alignment of the fencing and any other measures to be taken that will be provided for the protection of all such trees and hedges from damage during the carrying out of any work in respect of the development;
- (b) of the time periods for the provision and retention of the fencing and other measures identified for the purposes of sub-paragraph (a); and
- (c) for the laying of such hedges or parts thereof in advance of any part of the development being commenced

("the Tree and Hedge Protection Details").

Reason: in the interests of the character and appearance of the area

(21) All trees and hedges which are identified as being retained in the Existing Tree and Hedgerow Plan shall at all times during the implementation of the development be protected, and in the case of hedges laid, in accordance with the Tree and Hedge Protection Details, provided that the Tree and Hedge Protection Details may be amended in accordance with details expressly submitted to and approved in writing by the local planning authority for such a purpose.

Reason: in the interests of the character and appearance of the area

(22) As part of the submission of any application in relation to any of the Reserved Matters any part of the development details of the principles to be adopted in relation to all structural landscaping (both hard and soft) shall have been submitted to and approved in writing by the local planning authority which shall in particular include principles to be used in relation to:

- (a) all means of enclosure of public space;
- (b) pedestrian accesses and all circulation areas;
- (c) refuse and any other storage areas;
- (d) play areas;
- (e) sustainable drainage;
- (f) surfaces;
- (g) open spaces; and,
- (h) the boundaries of the site both with the open countryside and with existing built form.

("the Landscaping Principles").

Reason: in the interests of the character and appearance of the area

(23) All landscaping provided in relation to the development shall be in accordance with the Landscaping Principles, provided that the Landscaping Principles may be amended in accordance with details expressly submitted to and approved in writing by the local planning authority for such a purpose.

Reason: in the interests of the character and appearance of the area

(24) As part of the submission of any application in relation to any of the Reserved Matters a landscape management plan in respect of all hard and soft open, play and other spaces shall be submitted to and approved in writing by the local planning authority which shall in particular:

- (a) include long term design objectives (i.e. for a period covering at least ten years from completion of the development);
- (b) include management responsibilities;
- (c) include maintenance provisions;
- (d) include details identifying the phased implementation and establishment of the landscaping as part of the development;
- (e) include details for the replacement of any tree, hedge and any other planting in the event of the same being removed, dying or becoming seriously diseased or damaged, within the period of five years following the completion of the tree, hedge or other planting (as the case may be) requiring replacement is situated;
- (f) include details of the time period(s) within which any tree, hedge or other planting (as the case may be) to which sub-paragraph (e) above relates will be replaced;
- (g) accord with the Landscaping Principles, and
- (h) only include site layout drawings which are of a scale that has previously been approved by the local planning authority in writing in advance of such details being submitted, ("the Landscape Management Plan").

Reason: in the interests of the character and appearance of the area

(25) The development shall only be implemented in accordance with the Landscape Management Plan; and landscaping once provided shall at all times thereafter be managed and maintained (and where relevant replaced) in accordance with the Landscape Management Plan, provided that the Landscape Management Plan may be amended in accordance with details expressly submitted to and approved in writing by the local planning authority for such a purpose.

Reason: in the interests of the character and appearance of the area

(26) As part of any application in relation to the Reserved Matters of the development there shall be submitted to and approved in writing by the local planning authority a design code including a comprehensive master plan for the whole of the development which sets out:

- (a) block layouts;
- (b) movement linkages;
- (c) disposition and hierarchy of public spaces and the “total Open Space Provision”;
- (d) principles of sustainable design to be applied to development;
- (e) architectural treatment of all structures; including the range of external materials;
- (f) the interrelationship between built forms and landscape to include an assessment of views into and out of the Site;
- (g) highway treatment;
- (h) principles for the design and general location of furniture for streets and all other public areas including seats, shelters, refuse receptacles and cycle parking shelters;
- (i) principles for the provision of and locating of all external storage facilities to serve the buildings permitted by the development;
- (j) lighting; and
- (k) public art,

(“the Design Code”).

Reason: in the interests of the character and appearance of the area

(27) The development shall only be implemented in accordance with the Design Code, provided that the Design Code may be amended in accordance with a detailed design justification for any changes that may be expressly submitted to and approved in writing by the local planning authority for such a purpose.

Reason: in the interests of the character and appearance of the area

(28) No Reserved Matters application shall be submitted to the local planning authority unless it is accompanied by a statement identifying how any design proposals contained within that Reserved Matters application accords with the Design Code.

Reason: in the interests of the character and appearance of the area

(29) Prior to any part of the development being commenced, details of all lighting proposals shall be submitted to and approved in writing by the local planning authority which shall in particular include:

- (a) street lighting including lighting for all carriageways, roads, cycleways, footways, footpaths and turning spaces;
- (b) lighting of communal parking areas and all other publicly accessible areas;
- (c) the proposed intensity of the lighting;
- (d) the design of light columns; and
- (e) a lighting contour plan

Development shall only be implemented in accordance with the details that have been approved by the local planning authority unless otherwise agreed, in writing, by the local planning authority.

Reason: in the interests of the character and appearance of the area

(30) No building within the site shall exceed 2.5 stories in height.

Reason: in the interests of the character and appearance of the area.

(31) Prior to any part of the development shall be commenced, plans and sections of a scale not less than 1:200 showing the level of the finished floor slab of every building in relation to Ordnance Datum shall be submitted to and approved in writing by the local planning authority. Development shall only be implemented in accordance with the Floor Level Details that have been approved by the local planning authority.

Reason: in the interests of the character and appearance of the area.

(32) The reserved matters application(s) must include the provision of an access between the application site and the school/sports centre. Details of this vehicular access will need to include the point of access, width, layout and access road, and the means of securing/limiting its use.

Reason: in the interests of mitigating the increase in traffic resulting from the development and providing further access to the school/sports centre

INFORMATIVE – THIS DECISION

This decision has been taken in accordance with the following saved policies of the Development Plan:

Adopted Salisbury District Local Plan 2003 (saved policies)

H14	Land at Weaveland Road, Tisbury (housing)
E14A	Land at Weaveland Road, Tisbury (employment)
G1, G2	General Development Criteria
G5	Water Supply and Drainage
G6	Sustainable Development
G9	Planning Obligations
D1	Extensive Development Proposals
D6	Pedestrian Access and Permeability
D7	Site Analysis
D8	Public Art
H25	Affordable Housing
TR1	Sustainable Transportation
TR11	Parking Standards
TR12	Sustainable links in Development
TR13	Footpath Improvement
TR14	Cycle Parking
R2	Recreational Open Space
R4	Provision of contribution to indoor leisure facilities
R17	Public Rights of Way
C4, C5	Development in the AONB
C12	Protected species

Adopted Wiltshire Structure Plan 2006

DP1	Pursuit of Sustainable Development
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Supplementary Planning Guidance

Creating Places
Sustainable Development
Affordable Housing
Adopted Development Brief
Development Brief, Hindon Lane, Tisbury – December 2006

Government Guidance

PPS7, PPS1, PPS9, PPS22, circulars 11/95, 01/2005

INFORMATIVE – ENVIRONMENT AGENCY ADVICE

Pollution prevention during construction

Safeguards should be implemented during the construction phase to minimise the risks of pollution and detrimental effects to the water interests in and around the site. Such safeguards should cover the use of plant and machinery, oils, chemicals and materials, the use and routing of heavy plant and vehicles, the location and form of work and storage areas and compounds, and the control and removal of spoil and wastes.

The development should include water efficient appliances, fittings and systems in order to contribute to reduced water demand in the area. These should include, as a minimum, dual flush toilets, water butts, spray taps, low flow showers, no power showers and white goods, where installed, with the maximum water efficiency rating. Greywater recycling and rainwater harvesting should be considered. We would be happy to provide further advice when the applicant is designing the scheme.

Sustainable building and construction

It is recommended that the proposed development includes sustainable design and construction measures which comply with the Code for Sustainable Homes. The development should aim to achieve the highest number of stars possible preferably six. The applicant is advised to visit <http://www.communities.gov.uk/publications/planningandbuilding/codesustainabilitystandards> for detailed advice on how to comply with the Code It includes sections on energy and water efficiency and is compulsory for all housing from May 2008.

In a sustainable building minimal natural resources and renewables are used during construction and the efficient use of energy is achieved during subsequent use. This reduces greenhouse gas emissions and helps to limit and adapt to climate change. Running costs of the building can also be significantly reduced.

INFORMATIVE – AFFORDABLE HOUSING

The applicant is advised that, in relation to the subsequent Reserved Matter applications, the latest Housing Needs Study 2006 identifies the housing mix that should be delivered for both market housing and affordable housing. Within the Tisbury or Nadder Valley community area, the following splits have been identified as needed:

Market Housing:

1 bed 4%
2 bed 10%
3 bed 47%
4+ bed 39%

Affordable housing

1 Bed 36%
2 Bed 28%
3+ Bed 36%

Of the Affordable rent 50% should be 1 bed and 50% should be 2 bed. Of the shared ownership 30% should be 1 bed, 16% should be 2 bed and 56% should be 3+ bed.

INFORMATIVE

The developers' attention is drawn to the measures considered necessary by members to be included in at reserved matters stage where applicable, set out as follows:

1. That the provision of one parking space per employment unit is not considered sufficient;
2. That lighting throughout the site must be designed to limit external light pollution;
3. That rear access to numbers 1 to 7 Hindon Lane be provided from the application site via the proposed main means of access, and to number 8 if reasonable, justified and possible (bearing in mind other constraints);
4. That the buildings at the southern and western boundaries of the site shall only be two stories in height (without accommodation within the roofspace);
5. That the dwellings shall be of a highly sustainable design and construction;
6. That the employment uses shall be sited away from existing residential properties where possible.

- 4) **Should the S106 agreement not be completed until the period specified in (a) above – then the decision is delegated to the HDS to refuse for reasons of Loss of public open space (compliance with R2), Lack of affordable housing, inadequate travel planning, highway safety, inadequate access, surface water drainage, unsatisfactory phasing of development.**

Councillors Beattie and Parker asked that their dissent be recorded.

225. Planning Application S/2008/1590 Carry Out Alterations and Extension and Conversion of Building to 5 Flats and a Maisonette for Lipscombe Developments Limited at The Boardroom House, The Square, Mere:

The committee considered a presentation from the Planning Officer in conjunction with the previously circulated report, information contained in the schedule of additional correspondence circulated at the meeting and a site visit.

Resolved: That the application be refused for the following reasons:

1) The proposed external alterations, in particular the raising of the roof height at the rear, would adversely affect the character and appearance of the listed building and result in an unacceptable level of overdevelopment. The excessive amount of development would result in a poor level of amenity to future occupiers through the unacceptable level of parking provision (including in relation to bicycles); and would fail to provide adequate provision for refuse storage and recycling facilities. Furthermore the proposal would introduce a degree of overlooking to adjoining residential properties. In these respects, the development would be contrary to the aims and objectives of the saved policies G1, G2, H16, CN3, CN8, CN11, TR11 and TR14 of the Adopted Salisbury District Local Plan .

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

226. Planning Application S/2008/1591 Carry Out Alterations and Extension and Conversion of Building to 5 Flats and a Maisonette for Lipscombe Developments Limited at The Boardroom House, The Square, Mere:

The committee considered the previously circulated report. Mr D Carpendale spoke in favour of the application.

Resolved: That the application be refused for the following reason:

The proposal would by reason of, the extent to which the external alterations, in particular, the raising of the roof height at the rear (for the maisonette) would adversely affect the character and appearance of the listed building, result in an unacceptable development considered to be to the contrary to the aims and objectives of saved policies CN3, CN8 of the adopted Salisbury District Local Plan and PPG 15.

227. Community Update:

Councillor Fowler expressed his satisfaction that retrospective planning consent for the sign advertising the Black Dog at Chilmark had been granted by West Wiltshire District Council. He announced his intention to provide a report from Compton Abbas airfield at the next meeting of the committee. Finally, he mentioned that an article urging people to make representations to Wiltshire County Council Highways in order to achieve double yellow lines along station Road in Tisbury had featured in Focus, the parish magazine for the Nadder Valley. He did not think double yellow lines were appropriate for the site, and believed that the local community should unite behind proposals on parking in Tisbury being developed by County Councillor Tony Deane and the Tisbury and Parish Community Area Board.

Councillor Edge announced that Wiltshire Council were now unlikely to provide their share of the funding for the regeneration of the Market Square in Salisbury. Its preference was to proceed with the Maltings and Central Car Park development and use revenue generated by that project to fund the market place at a later date.

Councillor Parker voiced his regret on behalf of the residents of Dinton and Barford who had missed out in the allocation of low cost housing.

Resolved: that

- (1) a letter be written from the Western Area Committee to Tisbury Parish Council and copied to Tisbury and Parishes Community Area Partnership (TAPCAP) expressing the committee's views on yellow Lines along station Road in Tisbury;
- (2) subject to discussion with the Housing Unit, the issue of low cost housing allocation be placed on the agenda item for the next meeting of the committee.

*The meeting closed at 8:07 pm
Members of the public: 19*

Sandra Harry
Clerk to Tisbury Parish Council
Via email

DATE: 22 December 2008

Dear Mrs S Harry

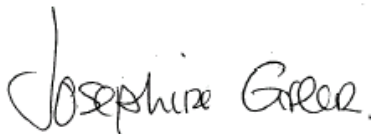
Station Road car parking.

At its meeting on 11th December the Western Area Committee discussed the notice recently published in the December "Focus" magazine regarding parking restrictions at Station Road.

Whilst Members appreciate the difficulties the car parking is causing in Station Road they do not think the introduction of parking restriction such as yellow lines will alleviate the problem. Experience shows that the introduction of street car parking restrictions only drives the problem elsewhere and bearing in mind the users of Tisbury station have few alternatives. Salisbury station parking is even more restricted and it is understood Gillingham is no better. Members are concerned the introduction of restrictions will drive the parking into adjacent parts of Tisbury. The Avenue car park is often filled to capacity and members therefore fear cars would be parked along The Avenue, in the Hinton Hall car park, St John's Close, The Mallards and High View as there is a footpath from the area to the railway station.

The solution would appear to be the field alongside the South Western Hotel and West Tisbury Parish Cllr Mrs Iona Lacey and County Cllr Tony Deane have been pursuing this option via the Pilot Tisbury Area Community Area Board (TAPCAB). Members consider this proposal is probably the most satisfactory solution and will support TAPCAB in its efforts. It is hoped Tisbury PC will feel able to support this proposed solution.

Yours sincerely



Councillor Josephine Green
Chair – Western Area Committee

CC: Katharine Dew - Tisbury Pilot Area Board Project Manager



INVESTOR IN PEOPLE



CUSTOMER SERVICE EXCELLENCE

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Awarded in:
Housing Services
Waste and Recycling Services

APPENDIX 4 – Hindon Lane, Tisbury

SOUTHERN AREA PLANNING

MINUTES OF THE SOUTHERN AREA PLANNING COMMITTEE MEETING HELD ON THURSDAY 27TH AUGUST 2009 AT 6.00 PM AT, CITY HALL, SALISBURY

Present:

Mr T Deane, Mr C Devine, Mrs M Douglas, Mrs J Green, Mr M Hewitt, Mr G Jeans, Mr I McLennan, Mr P Sample, Mr F Westmoreland (Chairman), Mr G Wright.

Apologies:

29. MINUTES

The minutes of the meeting held on 6 August 2009 were confirmed as a correct record and signed by the Chairman.

30. CHAIRMANS ANNOUNCEMENTS

The chairman made no announcements.

31. DECLARATIONS OF INTEREST

Mr T Deane and Mrs J Green both declared a prejudicial interest in application S/2008/2089, The Sports Ground, Wilton Road, Salisbury and left the meeting during the debate and did not vote on the application.

32. PLANNING APPEALS

The committee received details of the following appeals:-

Decision

S/2008/1345 – 1 The Arcade, Amesbury – delegated decision – dismissed
S/2009/0608 – Woodspring, Livery Road, Winterslow – delegated decision
– allowed
S/2008/1155 – 34 Green Lane, Ford – delegated decision – allowed
S/2008/1698/ - Rock Cottage, Chilmark – committee decision - allowed

Pending

S/2009/0684 – 136 Station House, London Road, Amesbury – delegated decision

33. S/2009/0577 – West View, High Street, Ansty – Replacement two storey dwelling house with detached three bay garage building

Public Participation:

1. Two further letters from the agent were reported.
2. Mr J Oldfield, Chairman of Ansty Parish Council, spoke in objection to the application.

Resolved:

That planning permission be **GRANTED** for the following reasons;

Whilst the replacement dwelling is larger than the existing bungalow, the proposal is considered acceptable, as it would be more in keeping with character of the area and even though it is to be more visible, the visual impact of the dwelling would not be significant and as such is in accordance with the provisions of the Development Plan, and in particular Policies G2 (General Criteria for Development), D2 (Design), C5 (Landscape Conservation), and H30 (Replacement dwelling in the countryside) of the adopted Salisbury District Local Plan.

Subject to the following Conditions:

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

REASON (1): 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 No delivery of plant, equipment, materials, demolition or construction work or other building activity shall take place on Sundays or public holidays or outside the hours of 08:00 & 18:00 weekdays and 08:00 & 13:00 Saturdays

REASON (2): In the interests of neighbouring amenity

3. During demolition and construction of the buildings, no bonfires or burning of surplus materials or other waste shall take place on site.

REASON (3): In the interest of neighbouring amenity

4. Prior to the commencement of development a method statement specifying how the demolition and site clearance will be undertaken shall be submitted to and approved in writing by the Local Planning Authority. Such a method statement shall include how the highway network will be protected in terms of wheel/vehicle washing strategy and road cleaning strategy.

REASON (4): in the interest of neighbouring amenity

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (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 place on the dwellinghouse(s) hereby permitted or within their curtilage.

REASON (5): 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.

6. No development shall commence on site until a sample panel of natural stonework has been erected on site, and has been agreed in writing by the Local Planning Authority. The panel erected shall also demonstrate the proposed coursing of the stonework, and the intended mortar colour. Development shall be carried out in accordance with the approved sample.

REASON (6): In the interests of visual amenity and the character and appearance of the area.

POLICY-D2, CN8, C5

7. Prior to any demolition works or construction works commencing, the existing trees to be retained on site, including the copper beech hedging, shall be protected in accordance with a scheme to be submitted to and agreed in writing with the Local Planning Authority. The development shall be carried out in accordance with the agreed protection scheme.

REASON (7): In order to retain existing landscape features on the site in the interests of general visual amenities.

POLICY: G2, C5, H30 retention of existing landscape features

INFORMATIVE:

1. With respect to water supply, there are water mains within the vicinity of the proposal. Again, connection can be agreed at the detailed design stage.

The developer should also be aware of the importance of checking with Wessex Water to ascertain whether there may be any unchartered sewers or water mains within (or very near to) the site. If any such apparatus exists, applicants should plot the exact position on the design site layout to assess the implications. Please note that the grant of planning permission does not, where apparatus will be affected, change Wessex Water's ability to seek agreement as to the carrying out of diversionary and/or conditioned protection works at the applicant's expense, or in default of such agreement, the right to prevent the carrying out of any such development proposals as may affect its apparatus.

It is recommended that the developer should agree with Wessex.

2. The applicant/developer should note that this application does not permit development or any change of use within the non residential land, indicated as blue land by the submitted plans.

3. Members of the Southern Area Committee raised concerns regards the substandard nature of the existing access arrangements, and requested that this matter be brought to the attention of the applicant. Whilst most changes to improve the access will require a further planning permission, it may be that visibility can be improved by the trimming of existing hedging.

34. S/2009/0834 – New Barn Farm, Ansty – Retention of mobile home to provide residential accommodation in association with the farm shop/enterprise

Public Participation:

1. A further letter, an email and photos from the agent were reported.
2. Officers reported that information concerning locally available rented accommodation had been received.
3. The response from the Highway Authority was reported.
4. Mr S Chambers (Agent) spoke in support of the application.
5. Mrs K Price (Occupier) spoke in support of the application.
6. Mr J Oldfield, Chairman of Ansty Parish Council, spoke in support of the application.

Resolved:

That planning permission be **GRANTED** against officer recommendation for the following reasons:

Paragraph 13 of the previous inspector's decision clearly indicated that there might well be a financial need for the accommodation, and the proposal is considered to be in accordance with the aims and objectives of PPS7, and policy E19. Also, in accordance with the aims of PPG13 regards sustainability, and the aims of the countryside policies including C2, C3, C4 and C5. The proposal is considered to have no impact on the surrounding countryside or highway safety.

Subject to the following conditions:

- 1) The mobile home hereby permitted shall be removed and the land restored to its former condition on or before 27.08.2012 in accordance with a scheme of work submitted to and approved in writing by the Local Planning Authority.

REASON (1): In the interests of amenity, in order to secure the restoration of the land upon removal of a building/use for which permission can be justified only on the basis of a special temporary need.

POLICIES H28 (Housing for Rural Workers) & C5 (Landscape Conservation)

- 2) The occupation of the mobile home hereby permitted shall only be for purposes ancillary to the operation and function of the associated rural enterprise (known as Ansty PYO and Farm Shop, Barnfield Farm, Ansty).

REASON: (2) : Permission would not normally be granted for this development, but regard has been paid to the particular circumstances of the rural enterprise which are considered, exceptionally in this case, to be sufficient to outweigh the normal planning policy considerations which would normally lead to a refusal of planning permission.

POLICY H28 (Housing for Rural Workers)

INFORMATIVE

1. This decision relates to documents/plans submitted with the application, listed below. No variation from the approved documents should be made without the prior approval of this Council. Amendments may require the submission of a further application. Failure to comply with this advice may lead to enforcement action

which may require alterations and/or demolition of any unauthorised buildings or structures and may also lead to prosecution.

Plan Ref "site location plan". Date received 22.05.09

35. S/2009/0282 – 23-29 Salisbury Street, Amesbury – Demolition and re-development of existing vacant Class A1 foodstore, car park, toilet block and removal of trees. Erection of new A1 foodstore with surface level and single storey deck car park, landscaping, servicing and associated development including relocation of existing monument

Public Participation:

1. Revised comments from English Heritage were reported.
2. Further comments from the Environmental Health Officer were reported.
3. Three further letters of support were reported.
4. Three further letters of objection were reported.
5. Comments from the officers were reported with respect to comments made on the committee report by the planning agents for the applicants.
6. Mrs O Holmes spoke in objection to the application.
7. Mr B Moore (Sainsburys) spoke in support of the application.
8. Mrs H White (Chairman of Stonehenge Chamber of Trade) spoke in support of the application.
9. Mr R Fisher (Mayor of Amesbury) spoke in objection to the application.

Resolved:

That planning permission be **REFUSED** for the following reasons:

1. The proposed development by reason of the height, mass (the physical volume), bulk (magnitude in three dimensions) and the location of the proposed decked car park and ramp in relation to neighbouring properties, gardens and window positions will severely impact on the amenity of the residential properties adjacent to the site, through a loss of outlook, privacy and the car park and ramp having an overbearing impact, contrary to saved policies G1, G2, D1, S1 and S3 of the adopted Salisbury District Local Plan.
2. The new decked car park, involves the removal of many of the existing site trees and grassed areas which contribute to the parkland character and appearance of this part of the conservation area, it is considered that some of the trees shown as existing on the plans will be difficult to retain in their current position and form and the proposal will therefore have a

detrimental impact upon the character and appearance of the conservation area contrary to saved policies G1, G2, D1, CN8, CN9, CN11, CN17, S1 and S3 of the Salisbury District Local Plan.

3. The Amesbury Conservation Area Appraisal and Management Plan Adopted on the 1st October 2008 identifies that the urban historic core of the town centre is defined by buildings of modest scale which provide an overall consistency within the character area and the sense of being within a traditional small historic market town. The Appraisal concludes that the quality of future development on key sites within the historic core will have a fundamental effect on the special character of the conservation area. The existing Co-op building is not considered to contribute to the character and appearance of the conservation area and two elements of the building are identified in the Amesbury Conservation Area Appraisal and Management Plan as 'Intrusive elements or frontages'. However, the proposed scheme by reason of the lack of detailing, the overall mass (the physical volume) and bulk (magnitude in three dimensions) of the Salisbury Street frontage will result in a large building which is not in keeping with the modest scale, character and appearance of buildings in the conservation area. Overall the proposed Salisbury Street frontage building will neither preserve nor enhance the character and appearance of the conservation area, contrary to saved policies G1, G2, D1, CN8, CN11, S1, and S3 of the Salisbury District Local Plan.
4. The proposed means of vehicular access by way of a mini-roundabout rather than a signalised junction, would introduce an uncontrolled junction onto the Principal Road A345 thereby leading to queuing and conditions which would be prejudicial to the safety and convenience of road users and contrary to policy G2 (i,ii) of the saved policies of the adopted local plan.

36. S/2009/0843 – land to rear of 6-12 Ringwood Avenue, Boscombe Down, Amesbury – Residential development comprising 20 two and three bed detached, semi-detached and terrace dwellings with associated access, garaging and landscaping

Public Participation:

1. A further officer recommendation concerning the section 106 agreement was reported.
2. Six further letters of objection were reported.
3. Officer comments on the relevance of ownership of land were reported.
4. Mr E Surgey spoke in objection to the application.
5. Mr J Akerman spoke in objection to the application.
6. Mr F Best spoke in objection to the application.

7. Mr S Packer (Agent) spoke in support of the application.
8. Mr J Noeken (Divisional Member) spoke against the application.

Resolved:

That planning permission be **REFUSED** against officer recommendation for the following reasons:

- 1) The development by reason of its design, appearance and density is considered to be a cramped form of development out of keeping in its architectural style and layout from surrounding properties and as such will detract from the visual amenities of properties in Lyndhurst Road contrary to policy D1(i), (iii) and (iv) of the saved policies of the adopted local plan.

37. S/2008/2089 – The Sports Ground, Wilton Road, Salisbury – Demolition of existing club house and construction of 5 dwellings with new access driveway and parking. Construction of replacement clubhouse adjacent to all weather pitch, new scoreboard, protective fencing and parking

Public Participation:

1. Four further third party letters were reported.
2. Mr P Curtis spoke in support of the application.
3. Mr J Walsh spoke in support of the application.
4. Mr C Cochrane (Divisional Member) raised matters regarding the foot path proposed.

Resolved:

That following completion of a legal agreement to secure the following:

- (i) A commuted sum towards the provision of public open space in accordance with policy R2 of the Local Plan
- (ii) The production of a travel plan which would encourage the use of sustainable modes of transport in association with the sports pavilion use;
- (iii) That the existing sports pavilion use is not removed until a suitable replacement facility is constructed and made available for use.

Planning permission be **GRANTED** for the following reasons:

The existing sports clubhouse building is of a generally poor standard, and the replacement of the facilities with new improved facilities is in accordance with the aims of the recreational policies of the Local Plan, in particular policies R1A and R5. Furthermore, the proposed sports pavilion

is considered to be of an attractive designed which would generally enhance the appearance of the area, and cause no detriment to the wider landscape, in accordance with the aims of policy C7 of the SDLP. Given the relocation of the sports building away from adjacent properties, it is considered that the proposal would also result in a general improvement to the amenities of adjacent properties. The removal and replacement of the sports clubhouse facilities will however need to be controlled, to ensure that the facilities are provided.

The erection of new dwellings on the site of the sports clubhouse building is considered acceptable in principle, as most of the land on which the dwellings would be sited are not covered by restrictions of policy R5 of the SDLP. Whilst a small percentage of the other land forming part of the housing site is covered by policy R5, the land in question is not used as formal playing pitches but instead makes up the ancillary grassed areas around the existing cricket pitch. Sport England support the proposals, and as a result, the proposals are considered to be in accordance with PPG17 and the similar aims expressed by the recreational policies of the Local Plan including R1A, and R5. Whilst the erection of the dwellings in the chosen location will have some affect on the amenities of the adjacent dwellings and its garden area, taking into account the relocation of the clubhouse use away from this boundary, the increased distance between the new dwellings and the boundary, and the reduction in fenestration and overlooking, it is considered that the dwellings would not have such a significant impact on residential amenities as to warrant refusal.

Both the Highways Agency and the Council's Highway Authority have stated that subject to a Travel Plan to encourage future accessing of the site by sustainable modes of transport, and the maintenance of suitable visibility from the vehicular access onto the A36, it is considered that any likely increase in use of the existing site and facilities, and proposed new sports pavilion, would be unlikely to have a significant impact on the adjacent highway system or highway safety.

The proposed scoreboard and netting is considered to have a minimal visual impact on the wider landscape, as the existing site already has a strong recreational character and contains various sports related structures. Neighbouring amenity would not be so significantly affected by the proposals as to warrant refusal.

The proposed footpath through the site to the adjacent school appears to be part of discussions between the applicant, landowner and local population, and is not being requested as a formal right of way by the LPA or highway authority as part of this planning application scheme. Details of this path can however be secured via condition, to ensure that it would be of simple construction and have no adverse impact on the landscape.

Therefore, subject to several restrictive conditions, including a Travel Plan to encourage sustainable transport, and a scheme related to ensuring the continuation and replacement of the recreational pavilion use, it is considered that the proposal would be acceptable.

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 (1): 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) No development shall commence on site until details and samples of the materials 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 (2): In the interests of visual amenity and the character and appearance of the area.

Policy - D1 visual appearance and impact

3) With regards to the replacement sports building, no external lighting shall be installed on site until plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage have been submitted to and approved in writing by the Local Planning Authority. The lighting approved shall be installed and shall be maintained in accordance with the approved details.

REASON (3): In the interests of the amenities of the area and to minimise unnecessary light spillage above and outside the development site.

Policy- G2 & C7 protection of amenities and countryside

4) With regards to the proposed dwellings, no development shall commence on site until details of any screen walls and/or fences have been submitted to and approved in writing by the Local Planning Authority. The screen walls and/or fences shall be erected in accordance with the approved details prior to the occupation of the dwelling(s) hereby permitted and shall be retained and maintained as such at all times thereafter.

REASON (4): To limit overlooking & loss of privacy to neighbouring property.

Policy - G2 impact on neighbour amenity

5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (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 (5): 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.

Policy - G2 & D2 general amenities and appearance of the area

6) With regards to the proposed dwellings, notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (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 in the walls and roofslope(s) of the development hereby permitted.

REASON (6): In the interests of residential amenity and privacy.

Policy - G2 general amenities

7) With regards to the sports pavillion building, no development shall commence on site until details of secure covered cycle parking and changing and shower facilities have been submitted to and approved in writing by the Local Planning Authority. These facilities shall be provided in accordance with the approved details and made available for use prior to the first occupation of the development hereby permitted and shall be retained for use at all times thereafter.

REASON (7): To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than the private car.

Policy - G1 sustainable transport

8) No demolition of the existing sports clubhouse building shall take place until the new sports pavillion building hereby permitted has been erected and made available for use.

REASON (8): To ensure that the existing sports clubhouse facilities are maintained and replaced within a suitable time frame.

Policy R1A & R5 - Enhancement of recreational facilities

9) No development shall commence until a scheme for the operation of the netting adjacent the cricket pitch shall be submitted to and approved in writing by the Local Planning Authority. The netting shall be operated in accordance with the agreed scheme.

REASON (9): In order to limit the impact of the netting on the visual character of the area and the amenities of adjacent residents.

Policy - C7 and D1 protection of visual amenities

10) No development shall commence until the existing access hardstanding area is improved in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority, and visibility from the vehicular access onto the A36 has been improved, with no obstruction to visibility at and forward of a point measured from 2.4m back into the centre of the access to 160m to the west. The visibility splay so created shall be maintained in that condition thereafter.

REASON (10): In the interest of highway safety

Policy - G2 highway safety

11) Development shall be carried out in accordance with the recommendations made in the submitted ecology report from Clarke Webb Ecology Ltd dated 17th November 2008, unless otherwise agreed in writing by the Local Planning Authority.

REASON (11): In order to protect flora and fauna, in accordance with the aims of PPS9 and the habitats

12) No development shall commence until a scheme of water efficiency has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed scheme.

REASON (12): In the interest of water conservation.

Policy G2 G3 sustainable water conservation measures

13) No development shall commence until details of the exact route, construction, and surfacing details, of the proposed pathway have been submitted to and agreed in writing by the Local Planning Authority. The pathway so agreed shall be provided on site and made available for use prior to the first occupation of any of the 5 dwellings hereby approved.

REASON (13): To improve access to the proposed development in the interests of sustainability and amenity.

POLICY: G1 & G2 amenities and sustainability

INFORMATIVE

Regards water efficiency measures and pollution prevention measures, details can be found on the environment agency website . Regards pollution prevention during construction, safeguards should be implemented during the construction phase to minimise the risks of pollution and detrimental effects to the water interests in and around the site.

38. S/2009/0844 – 3 Parkland Way, Porton, Salisbury – retrospective application for erection of decking and fencing

Public Participation:

1. Two further letters of objection were reported.
2. Mr M Wilson (Applicant) spoke in support of the application.

Resolved:

That retrospective planning permission be **GRANTED** for the following reasons:

The decking as built does not harm ecology or wildlife interests, including in relation to the River Avon SAC / SSSI, the Porton Meadows SSSI or the Porton East County Wildlife Site. It does not harm the living conditions of nearby properties, flooding interests, the character or appearance of the area, or any other material planning consideration. It therefore complies with saved policies G1, G2 (General Development Criteria), D3 (Extensions to dwellings), C10 (Development affecting Sites of Special Scientific Interest), C11 (Development that could affect Areas of High Ecological Value), C12 (Development affecting protected species) of the Adopted Salisbury District Local Plan.

And subject to the following conditions:

(1) Within one month of the date of this decision, a programme for ensuring that: (a) the boundary fencing that overhangs the watercourse be retreated behind the top of the bank; and (b) the steps as currently constructed are hinged parallel to the bank, or are removable and installed when access is required shall be submitted to and approved, in writing, by the Local Planning Authority. The approved programme of works shall be undertaken within three months of the date of this decision and the decking shall be maintained in that state in perpetuity.

REASON (1): in the interests of the river environment

Policy: Planning Policy Statement 25

(2) Within one month of the date of this decision, a scheme for the cleaning and maintaining of the decking shall be submitted to and approved, in writing, by the Local Planning Authority, and shall be implemented once approved by the Local Planning Authority. Cleaning and maintaining of the decking shall not thereafter take place other than in accordance with the approved scheme unless otherwise agreed, in writing, by the Local Planning Authority.

REASON (2): in the interest of the river and its species and their habitats.

Policy: C10, C11, C12 and Planning Policy Statement 9

INFORMATIVE:

The applicant is advised that any works in, under, over or within 8 metres / floodplain of the Main River will require prior Flood Defence Consent (FDC) from the Environment Agency under the Water Resources Act 1991 and Byelaws legislation.

It is understood that the summer house structure shown on the plans originally provided is within 8 metres of the Main River and has not yet been constructed. Therefore, an application for FDC should be made in this respect. Please note that unlike planning permission, FDC can not be issued retrospectively. Further guidance in respect of FDC can be obtained from the Environment Agency's Development & Flood Risk Officer - Daniel Griffin on (01258) 483351.

39. Land at Hindon Lane, Tisbury – S/2008/0779

The committee considered the report of the Senior Planning Officer with regard to a proposal to vary the grant of planning permission made in

respect of application S/2008/0779 to allow a further period of time to complete the legal agreement beyond the previously agreed time period.

Resolved:

That the resolution approved on 19th March 2008 in respect of application S/2008/0779 be varied so that the section 106 agreement has to be completed before 16th January 2010, but that if no agreement is secured by this time, that delegated authority be given to the Area Development Manager to refuse for the reasons stated in the original resolution.

PART 2

Items considered whilst the public were not entitled to be present

None.

Chairman
17 September 2009

Produced by Phillip Hamilton, Democratic Services, Direct Line 01225 718377
phillip.hamilton@wiltshire.gov.uk
Press enquiries to Communications, Direct Line 01225 713114/713115

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APPEALS

Appeal Decisions

Application Number	Site	Appeal Type	Delegated/ Committee	Decision	Overturn	Costs
S/2009/0684	136 Station House, London Road, Amesbury	WR	Delegated	Dismissed	No	No
S/2009/1515	Little Ridge, Southampton Road, Alderbury	WR	Enforcement Appeal	Withdrawn	No	No

* Copy of Appeal Decision attached

New Appeals

Application Number	Site	Appeal Type	Delegated/ Committee	Decision	Overturn	Costs Applied for?
None received						

WR Written Representations
HH Fastrack Householder Appeal
H Hearing Local Inquiry

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