

## AGENDA

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**Meeting:** Western Area Planning Committee  
**Place:** Council Chamber - Council Offices, Bradley Road, Trowbridge,  
BA14 0RD  
**Date:** Wednesday 4 January 2012  
**Time:** **6.00 pm**

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Please direct any enquiries on this Agenda to Marie Gondlach (Democratic Services Officer), of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 713597 or email [marie.gondlach@wiltshire.gov.uk](mailto:marie.gondlach@wiltshire.gov.uk)

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

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### Membership:

|                              |                                |
|------------------------------|--------------------------------|
| Cllr Trevor Carbin           | Cllr Christopher Newbury       |
| Cllr Ernie Clark             | Cllr Stephen Petty             |
| Cllr Rod Eaton               | Cllr Pip Ridout                |
| Cllr Peter Fuller (Chairman) | Cllr Jonathon Seed             |
| Cllr Mark Griffiths          | Cllr Roy While (Vice Chairman) |
| Cllr John Knight             |                                |

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### Substitutes:

|                      |                            |
|----------------------|----------------------------|
| Cllr Rosemary Brown  | Cllr Tom James MBE         |
| Cllr Andrew Davis    | Cllr Francis Morland       |
| Cllr Russell Hawker  | Cllr Jeff Osborn           |
| Cllr Malcolm Hewson  | Cllr Fleur de Rhe-Philippe |
| Cllr Keith Humphries |                            |

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# AGENDA

## Part I

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

1. **Apologies for Absence**

2. **Minutes of the Previous Meeting** (*Pages 1 - 20*)

To approve the minutes of the last meeting held on 30 November 2011 (copy attached.)

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**

The Council welcomes contributions from members of the public.

### Statements

Members of the public who wish to speak either in favour or against an application or any other item 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 and up to 3 speakers on any other item on this agenda. 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.

### Questions

To receive any questions from members of the public or members of the Council received in accordance with the constitution which excludes, in particular, questions on non-determined planning applications. Those wishing to ask questions are required to give notice of any such questions in writing to the officer named on the front of this agenda (acting on behalf of the Director of Resources) no later than 5pm on Wednesday 28 December 2011. Please contact the officer named on the front of this agenda for further advice. Questions may be asked without notice if the Chairman decides that the matter is urgent.

Details of any questions received will be circulated to Committee members prior to the meeting and made available at the meeting and on the Council's website.

6. **Proposed abandonment of the Diversion Order and Definitive Map Modification Order No. 22 2011 (Pages 21 - 28)**

To consider the report of the Service Director – Neighbourhood Services (copy attached).

7. **Planning Applications**

To consider and determine the following planning applications:

7.a **W/11/02357/FUL - Former Bradford On Avon Hospital Berryfield Road, Bradford On Avon, Wiltshire (Pages 29 - 48)**

|                              |                                                                                                                                                                                                             |
|------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Application Number</b>    | W/11/02357/FUL                                                                                                                                                                                              |
| <b>Site Location</b>         | Former Bradford On Avon Hospital Berryfield Road, Bradford On Avon, Wiltshire                                                                                                                               |
| <b>Development</b>           | Erection of 63 bed Care Home (Class C2) and 14 assisted Living Units (Class C2) with associated access, car parking (40 No. spaces), communal open space, landscaping and relocated electricity sub-station |
| <b>Recommendation</b>        | Approval                                                                                                                                                                                                    |
| <b>Division Member</b>       | Councillor Rosemary Brown                                                                                                                                                                                   |
| <b>Division</b>              | Bradford on Avon North                                                                                                                                                                                      |
| <b>Town / Parish Council</b> | Bradford on Avon                                                                                                                                                                                            |

7.b **W/11/01697/FUL - Land West Of Biss Farm West Ashton Road West Ashton Wiltshire (Pages 49 - 72)**

|                              |                                                                                                                                   |
|------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|
| <b>Application Number</b>    | W/11/01697/FUL                                                                                                                    |
| <b>Site Location</b>         | Land West Of Biss Farm West Ashton Road West Ashton Wiltshire                                                                     |
| <b>Development</b>           | Application to renew planning permission 05/00744/FUL to allow time to submit Reserved Matters pursuant to reference 98/01149/OUT |
| <b>Recommendation</b>        | Approval                                                                                                                          |
| <b>Division Member</b>       | Councillor Francis Morland                                                                                                        |
| <b>Division</b>              | Southwick                                                                                                                         |
| <b>Town / Parish Council</b> | West Ashton                                                                                                                       |

7.c **W/11/02019/REM - Durlston Hilperton Road Trowbridge Wiltshire**  
(Pages 73 - 80)

|                              |                                                                          |
|------------------------------|--------------------------------------------------------------------------|
| <b>Application Number</b>    | W/11/02019/REM                                                           |
| <b>Site Location</b>         | Durlston Hilperton Road Trowbridge Wiltshire                             |
| <b>Development</b>           | Amendment to granted reserved matters W/11/00271/REM approved 04/04/2011 |
| <b>Recommendation</b>        | Approval                                                                 |
| <b>Division Member</b>       | Councillor Ernie Clark                                                   |
| <b>Division</b>              | Hilperton                                                                |
| <b>Town / Parish Council</b> | Hilperton                                                                |

7.d **W/11/02981/FUL - 175 Devizes Road Hilperton Wiltshire BA14 7QS**  
(Pages 81 - 84)

|                              |                                               |
|------------------------------|-----------------------------------------------|
| <b>Application Number</b>    | W/11/02981/FUL                                |
| <b>Site Location</b>         | 175 Devizes Road Hilperton Wiltshire BA14 7QS |
| <b>Development</b>           | Brick outhouse (retrospective)                |
| <b>Recommendation</b>        | Approval                                      |
| <b>Division Member</b>       | Councillor Ernie Clark                        |
| <b>Division</b>              | Hilperton                                     |
| <b>Town / Parish Council</b> | Hilperton                                     |

8. **Urgent Items**

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

**Part II**

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

None.

## **WESTERN AREA PLANNING COMMITTEE**

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### **DRAFT MINUTES OF THE WESTERN AREA PLANNING COMMITTEE MEETING HELD ON 30 NOVEMBER 2011 IN THE COUNCIL CHAMBER - COUNCIL OFFICES, BRADLEY ROAD, TROWBRIDGE, BA14 0RD.**

#### **Present:**

Cllr Trevor Carbin, Cllr Ernie Clark, Cllr Rod Eaton, Cllr Peter Fuller (Chairman),  
Cllr Mark Griffiths, Cllr John Knight, Cllr Christopher Newbury, Cllr Stephen Petty,  
Cllr Pip Ridout and Cllr Jonathon Seed

#### **Also Present:**

Cllr Rosemary Brown, Cllr Jon Hubbard and Cllr Francis Morland

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#### **108 Apologies for Absence**

There were no apologies for absence.

#### **109 Minutes of the Previous Meeting**

The minutes of the meeting held on 9 November 2011 were presented.

#### **Resolved:**

**To approve as a correct record and sign the minutes of the meeting held  
on 9 November 2011.**

#### **110 Declarations of Interest**

##### **W/11/01373/FUL - Church Farm, Church Street, Hilperon, Wiltshire, BA14 7RG**

Councillor Trevor Carbin declared a personal and prejudicial interest as he lived next door to the property, accordingly Councillor Carbin would not be in the Council Chamber whilst the application was being considered.

Councillor Ernie Clark declared a personal interest as he had chaired the meeting of the Hilperon Parish Council when this application was discussed. Councillor Clark neither took part in the debate nor voted on the matter. He gave his assurance that he would consider the application with an open mind.

**W/11/01248/FUL - The Forge, Park Street, Heytesbury, Wiltshire**

Although it was neither a personal or prejudicial interest Councillor Christopher Newbury wished to declare that he had previously employed the main objector to the application as a solicitor.

**W/11/02357/FUL - Former Bradford on Avon Hospital, Berryfield Road, Bradford on Avon, Wiltshire**

**W/11/01373/FUL - Church Farm, Church Street, Hilperton, Wiltshire, BA14 7RG**

**W/11/01248/FUL - The Forge, Park Street, Heytesbury, Wiltshire**

**W/11/02648/FUL - Land Adjoining 16 Wiltshire Crescent, Melksham, Wiltshire**

**W/11/02194/FUL - Land Rear of 12 Lavender Close, Melksham, Wiltshire**

Councillors Rod Eaton, Roy While, Mark Griffiths, Jonathon Seed and Pip Ridout declared a personal interest as they had been heavily lobbied with regards to the applications. They all gave their assurance that they would consider the applications with an open mind.

**111 Chairman's Announcements**

The Chairman explained that the order of the agenda would be slightly amended to consider applications in the following order:

W/11/02648/FUL - Land Adjoining 16 Wiltshire Crescent, Melksham, Wiltshire

W/11/02194/FUL - Land Rear of 12 Lavender Close, Melksham, Wiltshire

W/10/03480/REM - Land Adjoining 21 Wynsome Street, Southwick, Wiltshire

**112 Public Participation**

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

The Chairman explained that a question had been received from Councillor Ernie Clark after the deadline for the submission of questions. Although the matter was not urgent the Chairman was conscious that there would not be a meeting of the Western Area Planning Committee until January 2012 and accepted Councillor Clark's question.

A copy of the question and response is appended to these minutes. Councillor Clark declined asking a supplementary question.

**113 Planning Applications**

A late list was circulated at the meeting and is appended to these minutes. The Committee considered the following applications:

**113.a W/11/02357/FUL - Former Bradford On Avon Hospital Berryfield Road, Bradford On Avon, Wiltshire**

Public Speaking:

- Mr Michael Thomas spoke in objection to the application.
- Ms Glenys Appleton spoke in objection to the application.
- Mr Chris Beaver spoke in objection to the application.
- Mr John Cottle spoke in support of the application.
- Mr Bruce Epsley spoke in support of the application.
- Mr Jim Tarzey, planning advisor for the applicant, spoke in support of the application.
- Mrs Vicky Landell-Mills, on behalf of Bradford on Avon Town Council, spoke in support of the application.

Councillor Rosemary Brown, Unitary Councillor for Bradford-on-Avon North, spoke in support of the application.

The Area Development Manager introduced the report which sought approval and drew the Committee's attention to the late list by reading through the salient points.

In responding to technical questions asked the Area Development Manager clarified that:

- All elements of sloping roof would be in slate;
- The design had been changed to include more use of stone;
- There were no plans for a helipad;
- The air conditioning would be located in the services area;
- The sub-station would be re-located at a distance from the neighbouring dwellings.

During the ensuing debate it became clear that the committee members would have to balance the impact of the development on the setting of a listed building with the benefit for the community from the development. Other issues to take into account were the impact of the development on the conservation area and its proximity to neighbouring properties.

Members of the committee felt that the best way to assess this would be to have an official site visit.

**Resolved:**

**To defer the application until a site visit had been organised to enable the committee to view the site and its surroundings.**

**113.b W/11/01373/FUL - Church Farm, Church Street, Hilperton, Wiltshire, BA14 7RG**

Councillor Trevor Carbin left the room at that point, Minute No.110 refers.

Public Participation:

- Mr Neil Millar spoke in objection to the application

- Mr Spencer Westwood spoke in objection to the application
- Mr Edward Sweet spoke in objection to the application
- Mr Andrew Penna, agent, spoke in support of the application

During the debate members of the committee discussed the provision of affordable housing, the off and on site parking and the possible impact of the development on the character and appearance of the conservation area.

On being put to the vote a motion to refuse planning permission was lost, Councillor Clark asked for his vote in favour of refusing planning permission to be recorded.

Resolved:

**To delegate authority to the Director of Development to grant planning permission subject to a legal agreement to secure the following:**

- i) a financial contribution towards the provision of 6 primary school places. Calculated at the 2011/12 cost multiplier of £12598 each, (totalling £75, 588 which would be valid on any S106 signed by 31.03.12);**
- ii) a financial contribution towards the provision of traffic calming, enhanced bus service infrastructure and a contribution of £2000 towards improvements to Bridleway HILP33 which links directly from the village to Middle Lane in Trowbridge;**
- iii) a financial contribution of £20,000 towards improvements to the village hall facilities.**
- iv) a financial contribution of £10,600 to be made in respect to enhancing off-site public open space provision, which shall ring fenced for improving the existing facilities at Hilperton Recreation Ground. [NB. Should the applicant wish to transfer the maintenance of the on-site public open space to the Council, there would be an additional financial contribution levied amounting to £27,915].**
- v) the provision of 3 affordable housing units on site (offered as the 2 x 2 bed units within Building B and 1 of the mid terrace 3- bed units within Building G) for rented accommodation as well as providing a commuted sum for off-site provision which shall be subject to a claw-back clause to allow for the 'open book' test to be revisited before any units are sold to ensure any subsequent improvement in viability is reflected in the commuted sum payment.**

**For the following reason(s):**

**The proposed development conforms to the Development Plan and the legal agreements and the conditions attached to it overcome any objections on planning grounds.**

**Subject to the following condition(s):**

- 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 commence on site until all the tin clad existing buildings (which are not identified for retention) have been permanently demolished and all of the demolition materials and debris resulting there from has been removed from the site.

REASON: In the interests of the character and appearance of the area [and neighbouring amenities].

POLICY: PPS5 - Planning for the Historic Environment and West Wiltshire District Plan 1<sup>st</sup> Alteration 2004 policies C18 and C22.

3 For the avoidance of any doubt, the red brick and pantile roofing material used in building 2 (B \_C) and the natural stone built boundary wall fronting Church Street shall be carefully dismantled and stored in a dry and secure place for re-use. The materials shall not be disposed of or otherwise taken off-site without the prior written approval of the Local Planning Authority.

REASON: In the interests of preserving the character and appearance of the Conservation Area.

POLICY: PPS5 - Planning for the Historic Environment and West Wiltshire District Plan 1<sup>st</sup> Alteration 2004 policies C18 and C22.

4 No development shall commence on site (including any works of demolition), until a Construction Method Statement, which shall include the following:

- (a) the parking of vehicles of site operatives and visitors;
- (b) loading and unloading of plant and materials;
- (c) storage of plant and materials used in constructing the development;
- (d) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- (e) wheel washing facilities;
- (f) measures to control the emission of dust and dirt during construction;
- (g) a scheme for recycling/disposing of waste resulting from demolition and construction works; and
- (h) measures for the protection of the natural environment.
- (i) hours of construction, including deliveries;

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 minimise detrimental effects to the neighbouring amenities, the amenities of the area in general, detriment to the natural environment through

the risks of pollution and dangers to highway safety, during the construction phase.

POLICY: PPG24 - Planning and Noise and West Wiltshire District Plan 1st Alteration 2004 policy C38 [NB. In addition to the requirements listed above, reader's attention is also drawn to the terms of condition 15 below - which specifically covers ecological interests]

5 No development shall commence on site until details and samples of the materials to be used for the development, including the dwellings, external walls (including all the new means of site/plot enclosures) and roof materials 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: PPS5 - Planning for the Historic Environment and West Wiltshire District Plan 1<sup>st</sup> Alteration 2004 policies C18 and C31a.

6 No development shall commence on site until details of the proposed ground floor slab levels have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved levels details.

REASON: In the interests of visual amenity.

POLICY: West Wiltshire District Plan 1st Alteration 2004 policies C18, C31a and C38

7 Details of any external lighting shall be submitted to and approved in writing by the local planning authority before the dwelling houses hereby approved have been brought into use. Development shall be carried out in accordance with the approved details.

REASON: In the interests of preventing light pollution and nuisance

POLICY: West Wiltshire District Plan - 1st Alteration policies C35 and C38.

8 No development shall commence on site until details of the finish to external timber, including any paint or stain 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: PPS5 - Planning for the Historic Environment and West Wiltshire District Plan 1<sup>st</sup> Alteration 2004 policy C18 and C31a.

9 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.

10 The public open space on-site provision shall be made available simultaneously with the development being brought into use.

REASON: To ensure a satisfactory provision of public open space throughout the development in the interests of the amenity of future residents.

POLICY: Leisure and Recreation DPD January 2009 policy LP4

11 No development hereby approved shall commence until proposals for the future maintenance of the on-site public open space have been submitted to and approved in writing by the local planning authority. Thereafter, the said areas of open space shall be maintained in complete accordance with the terms of such a scheme as may be so approved unless the planning authority gives written approval to any variation.

REASON: To ensure that the on-site public open space provision satisfies the interests and amenities of future residents.

POLICY: Leisure and Recreation DPD January 2009 policy LP4

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

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

13 The development hereby permitted shall not be occupied until provision shall be made within the site for the disposal of surface water so as to prevent its discharge onto the highway. Details of such provision shall have first been submitted to and approved by the Local planning Authority.

REASON: In the interests of Highway safety.

14 The junction onto the public highway shall have minimum 6m radii, whilst the gradient of the access road shall be no greater than 6.7% for the initial 6m and no greater than 8% thereafter.

REASON: In the interests of Highway safety.

15 No demolition work shall commence on the site until a Construction Method Statement for bats has been submitted to and approved in writing by the local planning authority. The Construction Method Statement should provide details of how works to the buildings with medium/high bat potential shall be undertaken (following the Bat Absence/Presence Survey report by Marishal Thompson Group, dated June 2011). Details shall be submitted for the Council's written approval indicating the use of the locations of bat boxes, access tiles or bricks into the scheme. The development must be carried out in full accordance with the approved Construction Method Statement.

REASON: In order to replace lost bat roosting opportunities and to maximise ecological conservation.

POLICY: PPS9 - Biodiversity and Geological Conservation.

16 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or any Order revoking and re-enacting that Order with or without modification, no development falling within Schedule 2, Part 1 Classes A-E of the Order, shall be carried out without the express planning permission of the Local Planning Authority.

REASON: In order to protect the amenity interests of neighbours and to safeguard the character of the Conservation Area and to enable the local planning authority to consider individually whether future additions and alterations should be granted.

POLICY: PPS5 - Planning for the Historic Environment and West Wiltshire District Plan - 1<sup>st</sup> Alteration policies C18, C31a and C38.

17 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 windows, doors or other form of openings other than those shown on the approved plans, shall be inserted in the northern rear

elevation of buildings B \_ C; or the northern and southern gable elevations of Building G; or the eastern and western gable elevations of Building H; or the eastern and western gable elevations of Building E, hereby permitted.

REASON: In the interests of residential amenity and privacy.

POLICY: West Wiltshire District Plan 1st Alteration 2004 policy C38

18 No development shall commence on site until details of the obscure glazing to be used throughout the scheme for all wc and bathroom windows have been submitted to and approved in writing by the Local Planning Authority. The obscure glazing shall be installed as approved and prior to the first occupation of the development hereby approved and thereafter shall be maintained in accordance with the approved details.

REASON: In the interests of residential amenity and privacy.

POLICY: West Wiltshire District Plan 1st Alteration 2004 policy C38

19 Prior to the commencement of any development on site a scheme to deal with the risks associated with contamination of the site shall be submitted to and be approved in writing by the local planning authority. That scheme shall include all of the following elements unless specifically excluded by the Local Planning Authority.

1. A desk study identifying:

- all previous uses of the site for at least 100 years and a description of the current condition of

the site with regard to any activities that may cause contamination;

- a list of potential contaminants associated with those uses;

- a conceptual model of the site indicating sources, pathways and receptors; and,

- 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. The risk assessment shall be carried out in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination CLR11".

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.

REASON: To ensure that land contamination can be dealt with adequately and to prevent pollution of the water environment prior to the site being brought into residential use.

20 If, during the course of implementing the hereby approved development, contamination not previously identified is found to be present at the site then no

further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval for an amendment to the Method Statement detailing how this unsuspected contamination shall be dealt with.

REASON: To prevent pollution of the water environment.

21 No dwellinghouse shall be occupied until the realignment of the boundary wall fronting Church Street has been completed in accordance with the approved plans.

REASON: In the interests of highway safety and to define the terms of this permission.

22 That for the avoidance of any doubt, the car breakers/reclamation business operations shall cease entirely prior to the commencement of any development hereby approved.

REASON: In order to define the terms of this permission and in the interests of residential amenity.

POLICY: PPG24 - Planning and Noise and West Wiltshire District Plan - 1st Alteration policy C38.

23 No demolition shall be undertaken on site until such time as a detailed schedule of the demolition works has first been submitted to and approved in writing by the Local planning Authority; such details to include:

Details of timing of demolition works;

Details of proposed demolition works, including hand demolition of the stone boundary wall fronting Church Street and B & C (identified as existing Building 2);

Details of proposed storage of (and retained) demolished walling and roofing materials;

and such works shall be implemented fully in accordance with such approved details unless otherwise agreed in writing by the Local Planning Authority.

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

POLICY: PPS5 – Planning for the Historic Environment and West Wiltshire District Plan 1<sup>st</sup> Alteration 2004 – Policies C17 and C22.

24 The development hereby approved shall not be carried out except in complete accordance with the details shown on the following submitted plans:

LOCATION PLAN – received on 27.04.2011

EXISTING SITE PLAN – drawing no. PKE2241.01 received on 27.04.2011

EXISTING PLANS, SECTIONS, ELEVATIONS BUILDING 2 – drawing no.

PKE2241.03 received on 27.04.2011

EXISTING ELEVATIONS BUILDING K – drawing no. PKE2241.04 received on 27.04.2011

EXISTING PLANS, ELEVATIONS BUILDING H – drawing no. PKE2241.05 received on 27.04.2011  
EXISTING TREE PLAN – drawing no. 5506/3 received on 27.04.2011  
PROPOSED SITE LAYOUT PLAN – drawing no. PKE2241.07M received 29.06.2011  
PROPOSED BUILDING B, C AND D PLANS – drawing no. PKE2241.09B received 27.04.2011  
PROPOSED BUILDING E DETAILS – drawing no. PKE2241.10C received on 27.04.2011  
PROPOSED BUILDING F DETAILS – drawing no. PKE2241.11F received on 27.04.2011  
PROPOSED BUILDING G DETAILS – drawing no. PKE2241.12D received on 27.04.2011  
PROPOSED BUILDING H DETAILS – drawing no. PKE2241.13B received on 27.04.2011  
PROPOSED BUILDING K PLANS, SECTIONS ELEVATIONS – drawing no. PKE2241.15A received on 27.04.2011  
PROPOSED BUILDING L DETAILS – drawing no. PKE2241.16B received on 27.04.2011  
PROPOSED SITE SECTIONS – drawing no. PKE2241.20 received on 27.04.2011  
PROPOSED SITE SECTIONS – drawing no. PKE2241.21 received on 27.04.2011  
LANDSCAPE DETAILS – drawing no. 5506/1B received on 27.04.2011  
TREE DETAIL PLAN – drawing no. 5506/2A received on 27.04.2011

REASON: To ensure that the development is carried out in accordance with the approved plans that have been judged to be acceptable by the local planning authority.

**Informative(s):**

1. The applicant's attention is drawn to the existence of the underground reservoir close to the road frontage and the access to it from the roadside.
2. The applicant/developer is advised of the need to submit plans, sections and specifications of the proposed retaining wall for the approval of the Highway Authority in accordance with Section 167 of the Highways Act 1980. For information, this relates to retaining walls which are wholly or partly within 3.65m of a street and which are at any point of a greater height than 1.35m above the level of the ground at the boundary of the street nearest that point.
3. Reptiles are protected from injury/ killing under the Wildlife & Countryside Act (1981, as amended) therefore prior to the commencement of construction work, the site must be cleared with due care and attention for reptiles: any significant debris (logs, large stones, piles of garden waste) should be checked by hand for the presence of reptiles sheltering beneath; vegetation

should be cut down to 10cm, and left as such for several days before cutting further and removing the topsoil. All cuttings should be removed from the site. Vegetation clearance should take place outside the breeding bird season (March – August inclusive) unless checked beforehand by a suitably qualified ecologist for the presence of nesting birds.

3 It is recommended that the developer investigates the use of Sustainable Drainage Systems (SuDs) for surface water drainage on this site, in order to reduce the rate of run-off and to reduce pollution risks. These techniques involve controlling the sources of increased surface water, and include:

- a) Interception and reuse
- b) Porous paving/surfaces
- c) Infiltration techniques
- d) Detention/attenuation
- e) Wetlands

The variety of SUDS techniques available means that virtually any development should be able to include a scheme based around these principles.

Pollution Prevention 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 machinery, oils/chemicals and materials, the routing of heavy vehicles, the location of work and storage areas, and the control and removal of spoil and wastes. It is recommended that the applicant refers to the EA Pollution Prevention Guidelines, which can be found at: <http://www.environment-agency.gov.uk/business/topics/pollution/39083.aspx>

4 The applicant/developer is advised to take note of the guidance provided by Wessex Water dated 9 May 2011.

5 Whilst the Geo Environmental Report (dated Nov 2007) prepared by Hyder Consulting has been fully assessed, the impacts of removing the underground storage tanks (USTs) requires further analysis. Once completed, a verification report is required to demonstrate the success of the work, as specified in item 4 of the above condition. Details of the proposed remediation should be prepared to address item 3 of the condition].

#### **113.c W/11/01248/FUL - The Forge, Park Street, Heytesbury, Wiltshire**

- Mr Christopher Jolly spoke in objection to the application
- Mr Diacon Carpendale spoke in objection to the application
- Mrs Rachel Royce, applicant, spoke in support of the application
- Mr Alan Moon, architect and agent, spoke in support of the application

The Area Development Manager introduced the report which sought approval. During the ensuing debate the Committee considered issues including the materials to be used and scale of the proposed development.



It was agreed that the issue of identifying and dealing with previous alterations that had been made without listed building consent would need to be addressed separately of the application.

**Resolved:**

**That planning permission be GRANTED.**

**For the following reason(s):**

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

**Subject to the following condition(s):**

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 samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in strict accordance with the approved details.

REASON: To ensure that the character and fabric of the listed building is protected.

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

3 Details of all new external windows and doors including any glazing, at a scale of not less than 1:20, and sections through all frames, glazing bars and opening mechanisms, at a scale of not less than 1:2, shall be submitted to and approved in writing by the Local Planning Authority prior to their installation in the building. The works shall then only be carried out strictly in accordance with those approved details.

REASON: To protect and preserve the character of the listed building.

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

4 Details of all new external doors, door linings, architraves, beadings, skirtings, shall be submitted to and approved by the local planning authority, prior to their installation in the building. The works shall then only be carried out strictly in accordance with those approved details.

REASON: To protect and preserve the character of the listed building.

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

5 Details of all new or replacement rainwater goods, which shall be of cast iron or cast aluminium construction and finished in black, shall be submitted to and approved by the Local Planning Authority prior to their installation in the building. The works shall then only be carried out in strict accordance with the approved details.

REASON: To ensure that the character and fabric of the listed building is protected.

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

6 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plan/s:

Elevations as existing received on 07 April 2011

Elevations as proposed received on 05 October 2011

Structural alteration to truss received on 11 May 2011

REASON: To ensure that the development is carried out in accordance with the approved plans that have been judged to be acceptable by the local planning authority.

### **113.d W/11/02648/FUL - Land Adjoining 16 Wiltshire Crescent, Melksham, Wiltshire**

Public Participation:

- Dr Elizabeth Christie spoke in objection to the application
- Mrs Trudy Stephens spoke in objection to the application
- Mr Simon Matthews spoke in objection to the application
- Mr Geoffrey Long, applicant, spoke in support of the application
- Mr Richard Harlow, agent, spoke in support of the application

Councillor Jon Hubbard, Unitary Councillor for Melksham South, expressed his concerns over the application.

The Area Development Manager introduced the report which sought approval. In response to technical questions asked it was clarified that access to the site would be on a private right of way.

During the ensuing debate members of the committee considered access to the site.

**Resolved:**

**That planning permission be GRANTED**

**For the following reason(s):**

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

**Subject to the following condition(s):**

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 samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

REASON: To ensure that the development harmonises with its setting.  
POLICY: West Wiltshire District Plan - 1st Alteration 2004 - Policy C31A.

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

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

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

REASON: To ensure that the development can be adequately drained.  
POLICY: West Wiltshire District Plan - 1st Alteration 2004 - Policy U1A.

5 The development hereby permitted shall not be occupied until provision shall have been made within the site for the disposal of surface water so as to prevent its discharge onto the highway. Details of this provision shall have first been submitted to and approved by the Local Planning Authority.

REASON: In the interests of highway safety.  
POLICY: West Wiltshire District Plan – 1st Alteration 2004 – Policy U1A

6 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting or

amending that Order with or without modification), no vehicular access shall be made between Longleaze Lane and the adjacent garage court.

REASON: In the interests of highway safety

7 The development hereby permitted shall not be occupied until the access and parking spaces have been surfaced and completed in accordance with the details shown on the approved plans. The areas shall be maintained for those purposes at all times thereafter.

REASON: In the interests of highway safety.

8 No development shall commence on site until visibility splays have been provided between the edge of the carriageway and a line extending from a point 2 metres back from the edge of the carriageway, measured along the centre line of the access, to the points on the edge of the carriageway 25 metres to the west and east from the centre of the access. Such splays shall thereafter be permanently maintained free from obstruction to vision above a height of 0.6 metres above the level of the adjacent carriageway.

REASON: In the interests of highway safety.

9 Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 1995, as amended, no development falling within Schedule 2, Part 1; Classes A,B,C,D,E,F & G, of the Order shall be carried out without the express planning permission of the Local Planning Authority.

REASON: The implementation of permitted development rights on this site would be unacceptable.

10 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans:

Location plan received on 3/10/2011

AH2010/30/1 Rev A received on 19/10/2011

AH2010/30/2 Rev A received on 19/10/2011

REASON: To ensure that the development is carried out in accordance with the approved plans that have been judged to be acceptable by the local planning authority.

**Informative(s):**

1 It is recommended that the developer should agree with Wessex Water, prior to the commencement of any works on site, a point of connection onto Wessex Systems.

The developer should be aware of the importance of checking with Wessex Water to ascertain whether there may be any uncharted 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.

**113.e W/11/02194/FUL - Land Rear Of 12 Lavender Close, Melksham, Wiltshire**

**Public Speaking:**

- Dr Elizabeth Christie spoke in objection to the application
- Mrs Trudy Stevens spoke in objection to the application
- Mr Simon Matthews spoke in objection to the application
- Mr Richard Harlow, agent, spoke in support of the application.

Councillor Jon Hubbard, Unitary Councillor for Melksham South, expressed his concerns over the application.

The Area Development Manager introduced the report which sought approval. During the ensuing debate members of the committee discussed access and vehicular traffic on Longleaze Lane.

**Resolved:**

**That planning permission be GRANTED**

**For the following reason(s):**

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

**Subject to the following condition(s):**

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 brought into use until the visibility splay as shown on the approved plan 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.

West Wiltshire District Plan 1st Alteration 2004 - POLICY: C31a

3 The development hereby permitted shall not be first brought into use; until splays have been provided on both sides of the access to the rear of the existing footway based on co-ordinates of 2.4m x 2.4m. The access shall be kept free of obstruction above a height of 600 mm; at all times.

REASON: In the interests of highway safety.

West Wiltshire District Plan 1st Alteration 2004 - POLICY: C31a

4 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans:

Location plan received on 3/8/2011

AH2011/CoU13 received on 3/8/2011

REASON: To ensure that the development is carried out in accordance with the approved plans that have been judged to be acceptable by the local planning authority.

**113.f W/10/03480/REM - Land Adjoining 21 Wynsome Street, Southwick, Wiltshire**

Public Participation:

- Mrs Janet Lane spoke in objection to the application

Councillor Francis Morland, Unitary Councillor for Southwick, explained the difficult set of circumstances and his concerns over the application.

The Area Development Manager introduced the application which sought approval.

In response to technical questions asked it was clarified that the access lane at the back of the site was a public bridleway, with established vehicular access.

Resolved:

That reserved matters be APPROVED

**For the following reason(s):**

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

**Subject to the following condition(s):**

1 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans:

Drawing: 1. Elevations received on 28 March 2011;

Drawing: 2. Floor Plans received on 28 March 2011;

Drawing: 3. Cross-section received on 28 March 2011;  
Drawing: 4. Site Layout Plan received on 28 March 2011; and  
Drawing: DWG004 Location Plan received on 28 October 2011.

REASON: To ensure that the development is carried out in accordance with the approved plans that have been judged to be acceptable by the local planning authority.

**Informative(s):**

1 The developer is advised that construction traffic and construction materials should not at any point block the bridleway to the rear of the site. For further information on the bridleway you can contact the Council's public rights of way team.

2 The applicant is advised to satisfy himself that he has a right of vehicular access over the bridleway to the site.

**114 Urgent Items**

There were no Urgent Items.

(Duration of meeting: 6.00 - 9.55 pm)

The Officer who has produced these minutes is Marie Gondlach (Democratic Services Officer), of Democratic Services, direct line 01225 713597, e-mail [marie.gondlach@wiltshire.gov.uk](mailto:marie.gondlach@wiltshire.gov.uk)

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

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**Wiltshire Council**

**Western Area Planning Committee**

**4 January 2011**

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**WILTSHIRE COUNCIL (SHEET ST 85 SE) WESTBURY 25 (PART) DIVERSION  
ORDER AND DEFINITIVE MAP MODIFICATION ORDER NO. 22 2011**

**Purpose of Report**

1. To:
  - (i) Consider the abandonment of an Order made under Section 257 and paragraph 1 of Schedule 14 of the Town and Country Planning Act 1990 and Section 53A of the Wildlife and Countryside Act 1981 proposing to divert a section of Westbury Footpath No. 25.
  - (ii) Resolve that the Order is abandoned and revoked.

**Background**

2. In July 2010 the Westbury Group Practice applied to Wiltshire Council for permission to build a Primary Care Centre (PCC) on land north-west of Westbury Leigh Primary School, Mane Way, Westbury. Application No. W/10/02170/FUL.
3. Planning permission was granted on 17 November 2010.
4. Part of the development coincided with the line of part of Westbury Footpath No. 25 requiring its diversion to allow development to proceed.
5. Using powers contained within the Town and Country Planning Act 1990 and the Wildlife and Countryside Act 1981 an Order diverting part of the footpath was made and advertised in accordance with the legislation on 15 April 2011 (see **Appendix 1**).
6. Although no objections had been received during the consultation process, one objection from Mr. F. Morland was received to the Order requiring the Order to be considered by the Western Area Planning Committee. This Order was considered at its meeting on 17 August 2011.
7. The Committee resolved:

*That the Wiltshire Council (Sheet ST 85 SE) Westbury 25 (part) Diversion Order and Definitive Map Modification Order No 22 2011 is forwarded to the Secretary of State for Environment, Food and Rural Affairs with the recommendation that the Order be confirmed with the modification to the Order Plan detailed below:*

*The s.38 Highways Act 1980 adoption plan shows that a two metre stretch leading from the roundabout past point A to footpath Westbury 54 has not been adopted as highway. Hence, the recording of this section as a public footpath is possible and preserves rights on foot. The Order Plan does require a small modification of the line to reflect this.*

8. The delay caused by the objection and anticipated delays related to the Planning Inspectorate determining the Order led the developer to submit a revised application for planning permission for the site (Application No. W/11/01853/FUL).
9. This second application did not interfere with the line of any public rights of way.
10. Permission was granted on 24 August 2011.
11. Development is now proceeding according to this second application rendering the Order to divert part of Westbury Footpath No. 25 unnecessary and incapable of confirmation.

### **Main Considerations for the Council**

12. The Town and Country Planning Act of 1990 states, in Sections 257 and 259:  
**“257 Footpaths and bridleways affected by development: orders by other authorities**
  - (1) Subject to Section 259, a competent authority may by order authorise the stopping up or diversion of any footpath or bridleway if they are satisfied that it is necessary to do so in order to enable development to be carried out—
    - (a) in accordance with planning permission granted under Part III, or
    - (b) by a government department.
  - (2) An order under this section may, if the competent authority is satisfied that it should do so, provide—
    - (a) for the creation of an alternative highway for use as a replacement for the one authorised by the order to be stopped up or diverted, or for the improvement of an existing highway for such use;
    - (b) for authorising or requiring works to be carried out in relation to any footpath or bridleway for whose stopping up or diversion, creation or improvement provision is made by the order.
    - (c) for the preservation of any rights of statutory undertakers in respect of any apparatus of theirs which immediately before the date of the order is under, in, on, over, along or across any such footpath or bridleway.
    - (d) for requiring any person named in the order to pay, or make contributions in respect of, the cost of carrying out any such works.

- (3) An order may be made under this section authorising the stopping up or diversion of a footpath or bridleway which is temporarily stopped up or diverted under any other enactment.
- (4) In this section “competent authority” means—
  - (a) in the case of development authorised by a planning permission, the local planning authority who granted the permission or, in the case of a permission granted by the Secretary of State, who would have had power to grant it; and
  - (b) in the case of development carried out by a government department, the local planning authority who would have had power to grant planning permission on an application in respect of the development in question if such an application had fallen to be made.

### **259 Confirmation of orders made by other authorities**

- (1) An order made under Section 257 or 258 shall not take effect unless confirmed by the Secretary of State or unless confirmed, as an unopposed order, by the authority who made it.
  - (2) The Secretary of State shall not confirm any such order unless satisfied as to every matter as to which the authority making the order are required under Section 257 or, as the case may be, Section 258 to be satisfied.
  - (3) The time specified—
    - (a) in an order under Section 257 as the time from which a footpath or bridleway is to be stopped up or diverted; or
    - (b) in an order under Section 258 as the time from which a right of way is to be extinguished,
 shall not be earlier than confirmation of the order.
  - (4) Schedule 14 shall have effect with respect to the confirmation of orders under Section 257 or 258 and the publicity for such orders after they are confirmed.”
13. The Department for Environment, Food and Rural Affairs (Defra) publication “Rights of Way Circular 1/09 – Guidance for Local Authorities” version 2 October 2009 advises at paragraph 5.29 in relation to public path orders:

*Authorities have the discretion not to proceed with orders to which there are representations or objections or may withdraw an order for other reasons, such as external factors making a scheme no longer appropriate. In order to bring the procedure to an end, the authority must make a formal resolution not to proceed, and should notify the applicant and those who have made representations or objections of the passing of the resolution.*

14. The recommendation has no effect on the environment.

### **Risk Assessment**

15. The proposed abandonment of the Order has been agreed with the developer. There is no risk associated with abandonment of the Order.

### **Financial Implications**

16. Costs associated with the making of this Order will be paid by the applicant. Any costs associated with the Planning Inspectorate would be found by Wiltshire Council. There is no additional cost associated with abandoning the Order.

### **Options to Consider**

17. Development is proceeding according to Planning Application No. W/11/01853/FUL and not the planning application that the Order was based upon, hence there is only one option to consider:

(i) Abandon and revoke the Order.

### **Recommendation**

18. The Wiltshire Council (Sheet ST 85 SE) Westbury 25 (part) Diversion Order and Definitive Map Modification Order No. 22 2011 is abandoned and revoked.

### **MARK SMITH**

Service Director – Neighbourhood Services

Report Author

**Sally Madgwick**

Rights of Way Officer

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

None

**PUBLIC PATH DIVERSION AND DEFINITIVE MAP AND STATEMENT MODIFICATION ORDER**  
**TOWN AND COUNTRY PLANNING ACT 1990 SECTION 257**  
**WILDLIFE AND COUNTRYSIDE ACT 1981 SECTION 53(A)(2)**  
**WILTSHIRE COUNCIL (SHEET ST 85 SE) WESTBURY 25 (part) DIVERSION ORDER AND**  
**DEFINITIVE MAP MODIFICATION ORDER NO 22 2011**

This order is made by Wiltshire Council under section 257 of the Town and Country Planning Act 1990 because it is satisfied that it is necessary to divert the footpath to which this order relates in order to enable development to be carried out in accordance with planning permission granted under part III of the Town and Country Planning Act 1990 namely the erection of a two storey primary care centre and associated works on land north west of Westbury Leigh Primary School, Mane Way, Westbury, Wiltshire.

This order is also made under section 53A(2) of the Wildlife and Countryside Act 1981 (“the 1981 Act”) because it appears to the authority that the Warminster and Westbury Rural District Council Area Definitive Map and Statement dated 1953 as modified under the Wildlife and Countryside Act 1981 require modification in consequence of the occurrence of an event specified in section 53(3)(a)(i) of the 1981 Act, namely, the diversion (as authorised by this Order) of a highway hitherto shown or required to be shown in the map and statement.

**BY THIS ORDER:**

1. The footpath over the land shown by a bold black line on the attached map and described in Part 1 of the Schedule to this order (“the schedule”) shall be diverted and the Warminster and Westbury Rural District Council Area Definitive Map and Statement dated 1953 and as modified by the Wildlife and Countryside Act 1981 shall be modified as provided below.
2. There shall be created to the reasonable satisfaction of Wiltshire Council an alternative highway for use as a replacement for the said footpath as provided in Part 2 of the Schedule and shown by bold black dashes on the attached map.
3. The diversion of the footpath shall have effect on the date on which Wiltshire Council certify that the terms of Article 2 have been complied with and upon the occurrence of that diversion the Warminster and Westbury Rural District Council Area Definitive Map and Statement dated 1953 as modified under the Wildlife and Countryside Act 1981 shall be modified by deleting from it the path or way referred to in paragraph 1 of this order and the path or way referred to in paragraph 2 of this order shall be added to it, and the definitive statement shall be modified as described in part 3 of the Schedule.
4. Where immediately before the date on which the footpath is diverted there is apparatus under, in, on, over, along or across it belonging to statutory undertakers for the purpose of carrying on their undertaking shall continue to have the same rights in respect of the apparatus as they then had.



**SCHEDULE**

**PART 1**

**Description of site of existing path or way**

That length of footpath Westbury no. 25 as shown on the attached map by a continuous black line starting at point A and leading north west for a distance of approximately 70 metres to point B.

**PART 2**

**Description of site of alternative highway**

Length of footpath as shown on the attached map by a broken bold black line starting at point A and leading north east for approximately 80 metres where generally west and south west for approximately 140 metres to point B. Width 2 metres.

**PART 3**

**Modification of Definitive Statement**

**Variation of particulars of path or way**

Westbury 25 FOOTPATH from Penleigh Mill on the Dilton Marsh Parish boundary leading east to path no. 23 where south east to the development where north east and east to Mane Way where south west to cross Mane Way at OS grid reference ST 8595 5042 then south east to Church Lane, Westbury Leigh.

Width OS grid ref. ST 8589 5045 to ST 8595 5042 2 m

Approximate length 779 metres.

THE COMMON SEAL OF }  
THE WILTSHIRE COUNCIL }  
Was hereunto affixed this }  
24 day of MARCH 2011 }

In the presence of: -

*Principal Solicitor*





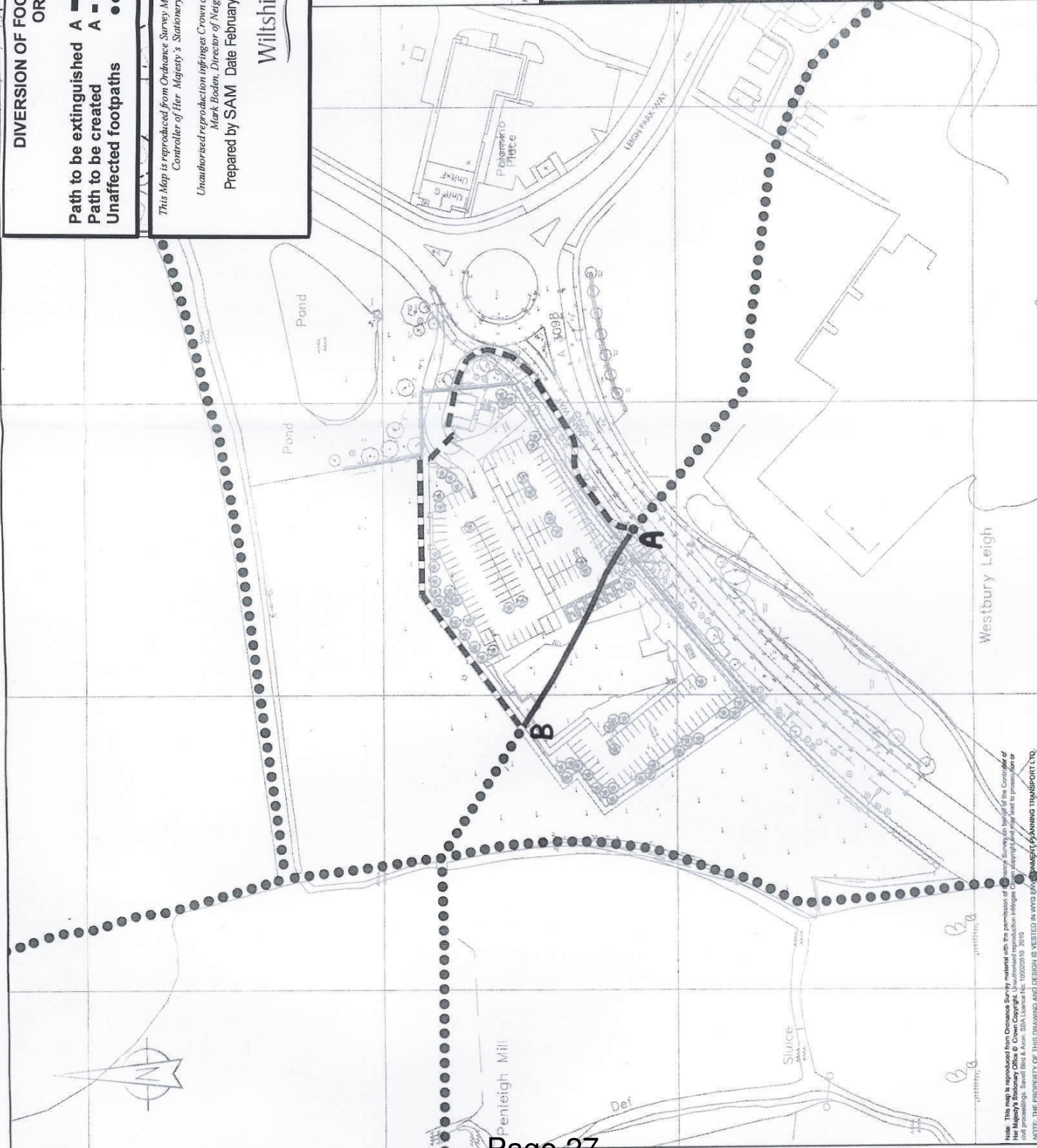
**DIVERSION OF FOOTPATH WESTBURY 25 (pt)  
ORDER PLAN**

- Path to be extinguished A B
- Path to be created A B
- Unaffected footpaths

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Mark Boden, Director of Neighbourhood and Planning, Wiltshire Council*

Prepared by SAM Date February 2011 Scale 1:1250 Grid Ref. A ST 8595 5042



| REV. | DETAILS | DRAWN | CHECKED | DATE |
|------|---------|-------|---------|------|
|      |         |       |         |      |

CLIENT: **Leighton Healthcare Limited**

PROJECT: **WESTBURY PCC**

DRAWING TITLE: **Diverted Footpath Arrangement (with Scheme base)**

SCALE: **1:1250 at A3**

DRAWN: HE      CHECKED: AW      DATE: 24.11.10

**Savell Bird & Axon**  
part of the WYG group

Regent Court, 12 Lower Park Row, Bristol BS1 5BN  
t: 0117 311 6387 f: 0117 925 4239 e: sba@sba.co.uk

DRAWING NUMBER: **A063738/SK/05**

REVISION: **•**

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## REPORT TO THE WESTERN AREA PLANNING COMMITTEE

|                            |                                                                                                                                                                                                 |                                                                |                |
|----------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------|----------------|
| <b>Date of Meeting</b>     | 04.01.2012                                                                                                                                                                                      |                                                                |                |
| <b>Application Number</b>  | W/11/02357/FUL                                                                                                                                                                                  |                                                                |                |
| <b>Site Address</b>        | Former Bradford On Avon Hospital Berryfield Road Bradford On Avon Wiltshire                                                                                                                     |                                                                |                |
| <b>Proposal</b>            | Erection of 63 bed Care Home (Class C2) and 14 assisted Living Units (Class C2) with associated access, car parking (40 No. spaces), communal open space, landscaping and relocated sub-station |                                                                |                |
| <b>Applicant</b>           | Castlemead Care/Berryfield House Regeneration Company                                                                                                                                           |                                                                |                |
| <b>Town/Parish Council</b> | Bradford On Avon                                                                                                                                                                                |                                                                |                |
| <b>Electoral Division</b>  | Bradford On Avon North                                                                                                                                                                          | <b>Unitary Member:</b>                                         | Rosemary Brown |
| <b>Grid Ref</b>            | 382633 161633                                                                                                                                                                                   |                                                                |                |
| <b>Type of application</b> | Full Plan                                                                                                                                                                                       |                                                                |                |
| <b>Case Officer</b>        | Mr James Taylor                                                                                                                                                                                 | 01225 770344 Ext 01225 770249<br>james.taylor@wiltshire.gov.uk |                |

### Reason for the application being considered by Committee

This application is before committee following deferral at 30 November 2011 committee to allow for a site inspection.

Councillor Rosemary Brown originally requested that this item be determined by Committee due to:

- \* Scale of development;
- \* Visual impact upon the surrounding area;
- \* Relationship to adjoining properties;
- \* Design - bulk, height, general appearance;
- \* Issues raised by local residents;
- \* Opportunity to discuss with relevant officers.

### 1. Purpose of Report

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

Neighbourhood Responses:

18 parties wrote to object; and

24 parties wrote to support.

Bradford on Avon Town Council Response:

No objection / Support

## **2. Report Summary**

The main issues to consider are:

- \* Planning history;
- \* provision of care facilities;
- \* setting of Grade II listed building;
- \* setting of conservation area;
- \* individual and woodland tree preservation orders;
- \* highway safety, access and car parking provision;
- \* neighbouring residential amenity; and
- \* design, scale and materials.

## **3. Site Description**

The application site is the western part of the former Berryfield hospital site which has been allocated as a “housing commitment” in the local plan. The former hospital site has in recent years been subdivided into two halves and the redevelopment of the main house and the associated eastern part of the site is on-going with many of the units now sold and occupied.

This application relates only the redevelopment of the western part of the site. This has a gentle variation in levels sloping generally from the north down to the south. It is undeveloped and has become overgrown grassland. The site has a number of tree preservation orders (TPO), including a woodland TPO on the boundary trees to the north, west and south of the site. The eastern boundary is a mix of residential walls/fences, mature trees, post and rail fencing, immature planting and hedgerows. Access to the site is existing from Berryfield Road; this was the original access to the hospital, but that building is now served by a new access created for the residential redevelopment.

To the east of the site is the Grade II listed Berryfield House, to the north, beyond the woodland belt is circa 1970s residential development, to the west are properties that front onto Bath Road and indeed Bath Road itself and the associated conservation area boundary. To the south and south-east are further circa 1970s residential properties.

## **4. Relevant Planning History**

08/00004/FUL - Mixed-use development comprising: new build healthcare incorporating nursing home, assisted living units, and ancillary accommodation (Class C2); conversion of Berryfield House to 3 no. dwellings and erection of 8 no. new dwellings (Class C3); conversion of the Coach House and Bothy to offices (Class B1); and associated landscaping and access works – Permission at committee on 20.01.2009

## **5. Proposal**

This is a revised proposal for the provision of a nursing home and assisted living units (Class C2) with ancillary development including roads, car parking, landscaping and re-location of an electricity substation.

In 2008 part of the planning permission for the redevelopment of the whole Berryfield site included (on the area subject to this current application) a 42-bed care home and 27 assisted living units. This revised application has increased the care home to a 63-bed care home facility and reduced the assisted living units down to 14.

Access to the site would be via the existing access onto Berryfield Road. Upon entry to the site it is proposed to erect the first of two blocks of assisted living accommodation. This would be a staggered terrace of 4 units over 2 storeys each with 2 bedrooms. Then to the north of this and the first of the TPO constraints would be 10 more assisted living units with an irregular U-shaped footprint. This

would be a further 2-storey block and include a mix of flats and houses with a mix of 2 and 3 bedrooms.

The assisted living units would be constructed from render to the walls with stone details, and natural slate to the roofs.

The ancillary development connected to the assisted living units is allocated car parking for 16 car parking spaces and 7 garage spaces, communal bin storage, private patios/balconies and communal landscape gardens.

The assisted living units have been submitted as Class C2 development consistent with the 2008 approval. A counsel opinion to confirm the use class has been submitted as part of the application. Part of that counsel assessment has been on the basis of the demonstrated link between the care home operator and the assisted living operator. Occupiers of any assisted living units would have to be 55+ years and at least one of the occupiers would be in need of a significant element of care. The occupiers of the assisted living units would have access to communal facilities provided within the care home. This matter was previously controlled by use of a condition to require the assisted living units be class C2 only.

Continuing north along the internal access road to the site and beyond the substantial Oak subject to a TPO a 63 bedroom care home facility is proposed. This is generally a 3 storey building with much of the ancillary development such as kitchen, plant and staff facilities located within the roof of the principal block. In addition to this the proposal details ancillary facilities for residents including 6 lounges, 3 dining rooms, hairdressers, activity room, treatment room, nursing stations and drugs rooms and managers/administration/waiting areas.

The care home would have walls constructed from a mix of render and natural stone, the roof would be natural slate and grey coloured single membrane metal.

The ancillary development connected to the care home is allocated car parking for 22 car parking spaces, 2 disabled bays and an ambulance space, cycle store, bin storage, maintenance store, and communal landscape gardens.

In addition the proposals include the relocation of an existing electrical substation at the site because reasonable access is required for servicing permanently and in perpetuity. In its current position the development would not facilitate necessary access, so its relocation is a requirement.

The application has been submitted with the following supporting information over and above the usual detailed plans:

- \* Design and Access Statement;
- \* Arboricultural Method Statement;
- \* Statement of Community Involvement;
- \* Revised Flood Risk Assessment;
- \* Ecological Assessment;
- \* Counsel opinion on the Class C2 use of the development; and
- \* Expert consultancy advice on the setting of heritage assets.

During the course of the application discussions have been had with the developers in light of the consultation responses. A number of suggestions and requests were presented by officers, and some alterations to the scheme were possible. It is accepted that these do not address the full extent of the public objection to the scheme, but they have been listed for clarity:

- \* Substation has been repositioned;
- \* Use of natural stone has been used more strategically, so increased on the east and south elevations and reduced on the west elevation;
- \* Levels for care home lowered to 91.05 (dependent upon bed rock conditions); and
- \* Alterations to site entrance and pedestrian facilities.

## **6. Planning Policy**

West Wiltshire District Plan 1st Alteration (2004)

C17 Conservation Areas

C23 Street scene

C31A Design

C32 Landscaping

C35 Light pollution

C38 Nuisance

C40 Tree planting

E4 Premises outside employment policy areas

T10 Car parking

T11 Cycleways

T12 Footpaths and bridleways

CF1 Community facilities

CF2 Re-use of community facilities

U1A Foul water disposal

U4 Groundwater Source Protection Areas

I1 Implementation

I3 Access for everyone

Wiltshire and Swindon Structure Plan 2016

DP1 Priorities for sustainable development

DP2 Infrastructure

DP3 Development strategy

DP5 Town centres, district centres and employment areas

DP9 Re-use of land and buildings

T5 Cycling and walking

T6 Demand management

C1 Nature conservation

C5 The water environment

HE2 Other sites of archaeological or historic interest

HE7 Conservation Areas and Listed Buildings

RLT1 Recreation, sport and leisure

Supplementary Planning Guidance (SPG)

Design Guidance - Principles (Adopted July 04)

Affordable Housing (Adopted July 2004)

Bradford on Avon Character Assessment (Adopted Jan 2001)

Wiltshire Local Transport Plan 2011-2026

Car Parking Strategy

National guidance

PPS1: Delivering Sustainable Development

PPS4: Planning for Economic Growth

PPS5: Planning for the Historic Environment

PPS9: Biodiversity and Geological Conservation

PPG13: Transport

PPS23 Planning & Pollution Control

PPG24 Planning & Noise

PPS25: Development and Flood Risk

## **7. Consultations**

Bradford on Avon Town Council

No objection – "...accordingly the Town Council welcomes the proposals and considers that the merits of the project and its importance to the town should be seen as important considerations in favour of approval. It is also the Council view that the differences between the approved scheme and the present proposal are not sufficient reasons to prevent the revised scheme from proceeding. The

Council therefore supports the present proposals and urges Wiltshire Council to approve the application.”

Conservation Officer

14 November 2011

No objection.

Earlier comments prior to final and revised plans:

No objection subject to revisions on east elevation materials and substation location:

“Of these proposals the main building of conservation concern is the care home itself that would be to the west of the listed building.

There is an extant 2008 permission for a care home on this site. The principle of a large building in such a close proximity to the listed building has therefore been established.

This current scheme proposes a larger building due to the functional need of the use, but it is nevertheless of a similar bulk and mass of building when compared to the previous approval. The height of the current proposal is approximately 2 metres higher than the previous one at 12 metres.

The north eastern section of the building would be raised from the lower height of the previous scheme up to the full height, but this has been justified as part of the need to get a certain amount of floor space for the use. Being a former hospital site, a care building on this site would fit in with the character of the area and this involves a minimum amount of development to make the project viable. Therefore, the increase in height of the north eastern section is acceptable in historic terms. The setting of Berryfield House would not be unduly harmed.

In terms of siting, a comparison of the approved and the proposed layouts show that the currently proposed building would be, at points, one metre closer to the listed building, but at other points would be the same distance as previously approved. This is considered to be a minimal change that would not affect the setting of the listed building.

The design of the care home is acceptable, the east elevation being the most important for the setting of the listed building. The fenestration is rhythmic and yet has enough variation in the vertical treatment to give an interesting and non-monotonous appearance.

However, the materials rely too heavily on render. Natural stone is shown as being used on two large projecting bays, almost as a border to render within. These projecting bays should be entirely dressed in stone. This would effectively break up the render on the rest of the building.

The proposed siting of the electric substation, shown at position G on AL(51)002 Rev B, is unacceptable. This would bring an unsympathetic and intrusive feature into the setting of the listed building. Vegetation cannot be used to screen a feature that is otherwise unacceptable. This substation needs to be resited to a more discreet location, away from the setting of the listed building.

Recommendation: Negotiate materials and substation as above.”

English Heritage

“The application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.”

Tree and Landscape Officer

No objection subject to conditions.

Ecologist

No objection – “Thank you for consulting me on the above application. I have reviewed the Ecological Assessment report (Aspect Ecology, August 2011) in conjunction with the proposed plans (Landscape Proposals drawing no.920, Ward Associates, August 2011). The site is predominantly over-grown amenity grassland, with several mature trees and a belt of woodland habitat along the western boundary; the latter is likely to be a locally important wildlife corridor. The mature trees are considered to have some bat roost potential, and the marginal woodland habitat is likely to be used by

foraging/commuting bats. Bat roosts of several species, including the rarer Lesser Horseshoes, have been recorded at the Berryfield site, although this is not acknowledged in the Ecological Assessment. Nonetheless, these habitats will be retained within the proposals and providing that lighting is restricted along the woodland edge, there will be no significant impact from the development. With the retention of these ecological habitats, and additional native species planting along the woodland edge (as shown in the landscape plan), the site will retain its functional connectivity and provide habitat opportunities for mammals, reptiles and breeding birds. The incorporation of bat roosting opportunities into the new building (i.e. 1FR Bat Tube / 2FR Bat Tube /N27 Bat Box Brick by Schwegler) would be welcomed and would provide biodiversity enhancement in line with the requirements of PPS9.”

Natural England

No objection.

Wiltshire Wildlife Trust

The biological records screen details pipistrelle, long-eared & lesser horseshoe bat records from hospital.

Environment Agency

No objection subject to conditions.

Wessex Water

No objection subject to condition on foul and surface waters.

Highways Officer

14 November 2011

No objection subject to condition.

Earlier comments prior to final and revised plans:

No objection subject to some revisions:

“The proposal is to develop the site of the former Berryfield Hospital site pursuant to an outline application reference W/08/0004 for the hospital and its grounds. The proposals are for a 63 bed care home and 14 assisted living units on the western part of the wider hospital grounds.

In principle, I have no highway objection to the proposals although there are a number of matters, as follows, that will need attention before I would be prepared to formally make such a recommendation

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- The visibility for drivers looking left when leaving the site is restricted by vegetation located between the footway and No. 5 Berryfield Road. I am seeking advice as to whether this vegetation can be cleared to significantly improve this situation.
- The various documents supporting the application provide differing information on the level of parking to be provided. Whilst I do not consider the ultimate numbers would be inadequate, it is important that a breakdown of spaces and garages is provided. It appears the parking provision is weighted towards the assisted living units and whilst this is not unacceptable, it will need to be confirmed that there would be flexibility so that any overflow from one facility would be accommodated in the other facility.
- I consider the wide bell mouth site access junction with Berryfield Road is inappropriate for the proposed use of the site and the presence of pedestrians. The junction should be modified to form a crossover junction over which pedestrians will have a continuous footway. It would still then be appropriate to have a footway along the western side of the access road and a short section of footway initially on the eastern side.
- A 6m wide aisle will be required for all car parking spaces.
- A continuous footway should be provided from Berryfield Road to the entrance to the care home by introducing crossovers to car parking.

Subject to the above matters being resolved and conditions relating to the access detail, parking and turning on site and the emergency access, I will have no highway objection to the application.”



### Community Services

Support in principal – “A comprehensive assessment of the care market in Wiltshire conducted in 2008 indicated that there was an under supply of specialist care home placements for people with dementia and nursing home provision across Wiltshire. Additionally, the older population within Wiltshire was predicted to increase by 55.7% between 2007 and 2026, and within the Bradford on Avon community area, the older population was predicted to increase by 48% over the same timeframe. Our most recent population projections indicate that the older population will increase by 26% more than was originally estimated.

The Department of Community Services is supportive of this proposed development; however we would request that the developer reconsider the tenure mix of the extra care apartments to provide a proportion (30%) of affordable rented units so that it is in line with the tenure profile of older people across Wiltshire.”

### Housing Officer

“A formal response from housing is not required”.

## **8. Publicity**

The application was advertised by 2 site notices on Bath Road and Berryfield Road, a press notice in the Wiltshire Times and neighbour notification cards to 66 properties.

Expiry date: 11 November 2011

Summary of points raised:

18 parties wrote to object (including Bradford on Avon Preservation Trust with concern over design detail not principle):

- \* Care home impacts on setting of Grade II listed Berryfield House;
- \* Increased height to 3 storeys – development should be restricted to 2 storeys;
- \* Increased footprint;
- \* Dominate private residential gardens – overlooking – loss of light;
- \* Too much render and not enough stone to walls;
- \* Form of proposal too complex and lacking reference – at odds with adjacent listed building;
- \* Relocated substation unacceptable – too close to residential gardens;
- \* Levels above extant scheme;
- \* Overdevelopment of the site;
- \* Proposals are misleading and understate impact;
- \* Light pollution;
- \* Noise from vehicles including ambulances;
- \* Consultation has been inadequate and location of site notice is not close enough to site;
- \* Access is dangerous – proximity to school – suggest using Bath Road;
- \* Trees are an ineffective screen for 6 months of the year;
- \* Monstrous flat roof building;
- \* Distances to neighbouring property misrepresented;
- \* wandering paths invade residential privacy;
- \* the residential scheme has been carried out with respect, what was the point if this is allowed;
- \* eye sore to those visiting town from Bath Road conservation area;
- \* there is a need in the town for more homes for the 55+;
- \* should return to the extant permission and withdraw this application;
- \* reminiscent of a wayside Travel Lodge;
- \* what are the windows and doors made out of;
- \* Lack of information;
- \* A helicopter pad would be unacceptable;
- \* 3-D electronic model shows harmful impact of proposals;
- \* Developer’s public consultation efforts have been inadequate;
- \* Draft National Planning Policy Framework requires higher level of engagement than carried out by developers.
- \* Concern over unfairness in the Council’s consideration of the matter due to engagement not occurring at a suitable time interested parties to influence the process;

- \* Officer assessment of the impact to Grade II listed building's setting has been inadequate;
- \* Officer assessment makes only passing reference to PPS5, has not made reference to the statutory duty, the PPS5 Practice Guide or English Heritage guidance and does not represent a proper analysis; it is flawed;
- \* Applicants submission and their heritage expert's assessment of the impact to the Grade II listed building's setting is inadequate/flawed; and
- \* Decision could be susceptible to legal challenge, particularly if decision taken without the benefit of a site inspection by members.

24 parties wrote to support:

- \* Nursing home is much needed;
- \* There is a covenant on land to allow only a health care facility to be built;
- \* Principal has been established by planning history;
- \* Additional employment – supporting economic growth;
- \* Design is sympathetic to surroundings / Attractive well designed;
- \* Sympathetic to listed building;
- \* Careful landscaping required;
- \* Benefit to local area;
- \* Sure developer will deal with building work in same sensitive manner as the residential redevelopment;
- \* The extant scheme is not viable, the site was marketed for 18 months without success based on extant scheme; and
- \* A care home is only viable on site based on 60 beds.

Furthermore a letter from Duncan Hames MP has been submitted which in summary is supportive of the principle but reiterates some of the detailed concerns represented through the consultation phase urging that they be addressed and/or considered in the planning committee decision.

## **9. Planning Considerations**

### **\* Planning history**

Whilst every planning application must be assessed on its merits, there is a planning permission extant on this application area for a 42 bed care home facility in the northern section of the site and then 27 assisted living units in 3 blocks over the southern portion. All of the extant development was over a mixture of 1-3 storeys. This planning approval was granted up to January 2012 at planning committee in 2009.

This history does to an extant provide the context for considering this application. It demonstrates that the principle of this type of development is acceptable, and it points to the widespread desire locally to see a healthcare development realised on the former hospital site.

### **\* provision of care facilities**

The site has been allocated in the local plan as a "housing commitment", there is no policy to require a health care facility on this site. However it is noted that the public consultation process has made it clear that there is a private covenant on the land for the next 35 years which requires this.

Generally the local plan policy seeks to support the provision of community facilities such as health care. Furthermore the consultation with colleagues in community services has revealed a need for this type of development and with demographic trends the need is only likely to increase. In short this proposal is considered to be an important part of the local community facility provision and in principal it has widespread support.

### **\* Setting of Grade II listed building**

There are nonetheless critical site sensitivities that have to be addressed in order to consider if the scheme is acceptable in detail.

Firstly turning to the impact on the setting of the Grade II listed Berryfield House. Members will be aware of the Council's statutory obligations under Section 66 of the Planning (Listed building and Conservation area) Act 1990 which states that the local planning authority has a duty to pay special



attention to the desirability of preserving the (listed) building or its setting or any features of special architectural or historic interest which it possesses.

Berryfield House is by the standards of a grade II listing arguably one of the finer examples of architecture and historic interest. It is important to assess the relative value of the heritage asset when assessing the proposals against Planning Policy Statement 5. This is clearly an important building historically to the town and points to the historic use of this site for care provision. Maintaining this relationship (albeit in a different form) is a valuable positive to the scheme within a heritage asset assessment. Further this building is clearly of architectural merit also. It has classic proportions and a number of quality design features, and has been built from traditional local materials.

Defining the setting of any building is always a grey area and this is usually done by looking at historic features including boundary treatments and landscaping. It is clear that the setting of this building has substantially evolved over time including the circa 1970s residential development that largely surrounds it, and more recently the immediate eastern curtilage redevelopment for housing. However to the west of the listed building the setting may be defined in part by the incomplete hedge and then there is an area of 'leakage' to the south west where only recently has a small hedge and post and rail fence been planted/erected. In short the setting of Berryfield House is very subjective.

It is assessed that the care home building may reasonably be concluded to be within the outer edges of the listed building's setting, but the assisted living units are outside of it, by reason of principally their distance from the listed building but also the presence of a large TPO tree.

The care home building proposed is undoubtedly a large structure. It has been designed over 3 storeys through a functional necessity which will be discussed later. It has been designed to reflect some architectural features of the adjacent listed building, e.g. parapet walls and use of stone. It has been sited at a lower ground level than the listed building, reduced after discussion to the same level as the extant scheme. The ancillary development for staff has generally been limited to the roof void in order to keep the overall massing and height of the building as low as the developer's consider they reasonably can achieve and keep the scheme viable. The scheme has made a varied use in depths and materials on elevations to add interest and variety to the building and this is considered to be positive. This has allowed the development to avoid being a pastiche of the adjacent listed building and be a contemporary building that is independent to the listed building, but has sufficient context to respect the listed building. The overall height of the development would not be greater than that of the listed building by virtue of having low slab levels. A separation distance of up to 40 metres would be maintained between the care home and the listed building, which is comparable to the extant scheme.

Rather than merely summarise the expert opinions of the Council's conservation officer, they have been repeated verbatim above, and following some relatively minor but important alterations they have no objection to the development. The proposals have been subject to a consultation with English Heritage and some of the "amenity bodies", even though this is beyond statutory requirements. However this has revealed no meaningful responses. The local amenity body, the Bradford on Avon Preservation Trust has objected to the development proposals; they are of the view that the care home element of the scheme needs complete rethinking as it is unimaginative and banal, local lime stone must be used and details on windows are required. More information and a serious revision is required in their opinion. Your officers though take a different view and consider the design, whilst lead from functional requirements has incorporated details that add variety and interest. More stone has been sought on the east elevation with Berryfield House and clarification on windows has been provided (powder coated metal frames) and may be controlled by condition. The overall design of the care home facility is considered to be of a better quality than the extant scheme, albeit it does have a greater mass too.

The proposal would have an impact on the setting of this grade II listed building, however after careful consideration, on balance it is not deemed to create significant demonstrable harm to the setting. The care home building would be a building that would sit alongside the listed building, and having its own character and identity it would not rival it; furthermore it is different and separate enough to avoid competing with the listed building despite its scale. Furthermore it is not considered to cause any significantly greater impact on the setting than the extant permission so as to merit refusal of the application. This final conclusion is consistent with expert internal conservation advice and the views of Bradford on Avon Town Council.

Guidance and advice on material planning considerations is substantial and as such is not necessarily referenced completely in each report, however your professional officers are aware of it and have regard to it in making their recommendations. The accompanying guide to PPS5 and the new English Heritage guidance (October 2011) has been given consideration by your officers and as stated above English Heritage were consulted on the application. English Heritage guidance details under practical and proportionate decision-making that protection of setting of heritage assets need not prevent change and that any impacts must be balanced against the public benefits that may accrue from the scheme.

An objector's counsel opinion is silent on Policy HE10 of PPS5 which also deals with development affecting the setting of a heritage asset. Your officers consider that the balancing exercise advocated is the relevant test that should be applied in this application. Policy HE10.1 states: "When considering applications for development that affect the setting of a heritage asset, local planning authorities should treat favourably applications that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset. When considering applications that do not do this, local planning authorities should weigh any such harm against wider benefits of the application. The greater the negative impact on the significance of the heritage asset, the greater the benefits that will be needed to justify approval."

The application has been assessed (at all stages and times) in light of all of this information and your officers have concluded that the development would not cause substantial harm to the setting of the listed building. This is a subjective judgement. The objector comments and counsel opinions on the matter have been given careful consideration as has the information submitted by the applicant.

A further issue in terms of the setting of the Grade II listed Berryfield House has been the location of a substation. The scheme has been revised in order to have the substation further away from the listed building and remote from its setting.

\* Setting of conservation area

The conservation area is an important heritage asset that needs to be handled with care. Members will be aware of the Council's statutory obligations under Section 72 of the Planning (Listed building and Conservation area) Act 1990 which states that the local planning authority has a duty to pay special attention to the desirability of preserving and enhancing the character or appearance of the conservation area.

The site, where it has a boundary with Bath Road abuts the conservation area. The assisted living units have been reduced in number and scale over the extant approval. This combined with the protected mature tree features mean that the development nearest the conservation area would have less of an impact than the extant scheme. The 3-storey care home is set to the northern part of the application site and given the degree of separation would not be prominent. Whilst it would be higher than the extant scheme it is not considered that it would have any significant affect on the character, appearance or setting of the conservation area. For these reasons the proposals accord with conservation area policies.

\* Individual and woodland tree preservation orders

This application has been submitted with a landscaping scheme and an arboricultural method statement. At pre-application stage it was made very clear that any development needed to respect the trees and woodland subject to preservation orders and additional planting to supplement this and complement the built form would be required. This has been achieved. The Council's tree and landscape officer raises no objection subject to conditions which seek implementation of all the measures detailed within the application and a management plan. Trees subject to protection will not be affected by the development scheme.

\* Highway safety, access and car parking provision

The proposals would make use of the existing access onto Berryfield Road. Some objection has been received regarding this approach stating it would be prejudicial to highway safety. It has to be accepted that this was once the only access to the hospital site and would have been subject to significant movements of traffic. The original redevelopment scheme of the wider Berryfield site

created a new access for all the residential and office development that is now substantially complete. It was always intended that the old access would remain for the care home and assisted living units. It is appreciated that the care home has increased its accommodation substantially, but the level of assisted living has also reduced substantially which arguably balances this out. There would be no demonstrably greater harm using this access for the proposals over and above the extant scheme.

The proposals have been subject to consultation with expert highway officers who in principle raise no objection. They have, in acknowledgement of the presence of the school to the east and the proximity with a junction with Bath Road to the west noted an opportunity to use Council owned land to increase the eastern visibility splay. This involves the removal of some landscaping but that is not of such amenity value so as to raise an objection, moreover it is not subject to any protection. This has been confirmed by the Council's tree and landscape officer. The loss of planting would be compensated for by the improvement to visibility and suitable low level planting that should be part of any landscaping scheme approved by condition. The visibility splay has been stipulated by the highways officer and reflected in a condition.

The highway officer has sought other alterations to the scheme and clarification which the applicants have partially incorporated into the final scheme. This includes providing enhanced pedestrian facilities over the existing bell mouth access. Furthermore, within the site, provision of a continuous footpath with crossovers has been provided and also minor changes to car parking to ensure standard manoeuvring have also been incorporated. A condition on this matter has been suggested to allow on-going discussion on the finer details of these improvements, and ensure that the works are carried out prior to occupation of any development.

For the sake of clarity it is reiterated that 16 parking spaces and 7 garages are provided for the assisted living units and 24 (including disabled, plus one more as an ambulance bay) are provided for the care home. This is acceptable and will be controlled by the approved plans condition.

It is stressed that this is unlikely to remove objection from local residents, however it is an improvement on a scheme which would ultimately cause no significant harm anyway. To move the access to Bath Road (as some residents have suggested) is not considered to be necessarily a better solution; moreover it is not what is being applied for and may have harmful impacts on TPO trees.

Within the site the arrangements for parking etc are deemed to be acceptable. These are ultimately care home and assisted living units, so the movement of vehicles of occupiers are likely to be quite modest. Staffing and visitors will be able to make use of walking, cycling and convenient public transport in addition to the limited on-site parking. The proposals accord with the newly adopted car parking strategy for Wiltshire.

\* Neighbouring residential amenity

The proposed development has resulted in objection from residents that would adjoin the site to the north, east and west. Concerns range in terms of amenity loss from noise in connection with vehicles and residents using the gardens, to overshadowing, overlooking and loss of light.

There are no minimum distance requirements between windows of new development and garden boundaries and habitable room windows which are strictly applicable to this scheme. The Council however does have adopted guidance on house alterations and extensions that stipulate a habitable room window should be 10 metres or more from an adjoining garden boundary and 21 metres from a neighbour's habitable room window. The proposals would generally respect this guidance. There is one area where the care home's windows would be less than 10 metres from the boundary of the site. However the area to which it would overlook is part of what on the ground have become extended individual gardens to the new dwellings that have been created beyond the main core of Berryfield House. Given that these private gardens would be over 30 metres in depth, it is considered that the distance of over 40 metres between the backs of these properties and the care home is adequate. It is appreciated that local residents may feel, given the amount of time that they have been able to enjoy a vacant and open site next to their homes, that the level of overlooking proposed is unacceptable.

In terms of loss of light then proposals are of sufficient separation distances from and to existing properties to avoid demonstrable harm.

As existing landscaping should not be considered as a permanent feature in assessing development, then its presence as a screen to the development has been afforded little weight. However in reality there is mature landscaping to the north and west of the proposals, which for several months of the year (when many would want to enjoy their gardens) would provide a natural screen. To the east it is appreciated that this screen is not mature and it is agreed that the submission arguably overstates the value this would have in terms of reducing amenity impacts. Furthermore it is noted that the proposals are now a bank of 3-storey development at this point rather than a tiered 3, 2 and then single storey, albeit the revised scheme's footprint is set further away from the boundary than the extant scheme. However the proposals are not considered to create demonstrable harm in terms of residential amenity.

In terms of noise, it is inevitable that the proposals will have a level of noise from residents using the facilities, visitors, servicing etc. However it is not considered that this would cause any significant harm given the degree of separation from existing residential property.

The suggestion that residents will be wandering through the woodland has been refuted by the applicants. There will be hard landscaping features such as retaining walls to prevent this. The point of the 'wandering paths' is to encourage outdoor recreation for residents in a structured and accessible manner.

\* Design, scale and materials

The proposals have been redesigned so that the scale of development as you enter the site is at 2-storeys and becomes progressively higher as you move through the site and reach the terminus of the 3-storey care home. This follows the natural topography of the site also. The proposals make use of the site's tree constraints to add a sense of maturity to the scheme and ensure that it fits around these defining natural characteristics. The assisted living units are in a smaller block at the front of the site, and then a far larger block in the middle in terms of footprint. This progression in scale is logical. The care home has been sited to the rear of the site for a number of reasons, including the need for occupiers to have safe and secure outdoor space, tree constraints, parking requirements, to allow for a graduation of scale from the entrance, and because assisted living occupiers generally prefer not to have to go past the more intensive level of care that they may have to move into. It is considered to be a reasonable and logical approach.

The assisted living units would have rendered walls, stone details and natural slate to the roofs. They are well proportioned buildings, which are considered to be reasonable in the context, given the proximity of the conservation area and its period dwellings, but on the other hand the proximity of 1970s suburban homes made with reconstructed stone faced block over 2-storeys. The buildings have a simple design but sufficient details such as roof terraces to add the variety and interest required of good design standards.

The care home proposals are a graduation from this, both in terms of scale, massing, design details and materials.

There are some apparent functional requirements to a care home building which the extant permission did not acknowledge and for this reason would never realistically have been built. In the current market the developers are insistent that a 63 bed scheme is a minimum development level to be financially viable. For the sake of efficiency and therefore also to be financially viable again this needs to be provided within one building, and due to site constraints the northern portion of the site is the only place where this could be reasonably sited. This has been clearly set out in the supporting information. In the interests of efficient nursing and patient care it is also highly desirable to have all floors of virtually identical layout. This necessarily impacts on the external elevations because the building must be 3-storeys without the variation in heights that the extant approval had. The extant 42-bed approval was a speculative application which did not have an end user's input, and therefore concessions were made in its design in order arguably to gain planning permission without detailed consideration as to its viability.

The architects have been open to suggestions on how to provide variety and interest in the building despite these functional demands. The proposals have added variations in depth and materials in order to add interest, create a separate building, but also supply some context and acknowledgement



to the quality of the adjoining Grade II listed building. The plans have been varied through the application process in order to address, in part local residents concerns, but also to satisfy your officers that all reasonable efforts have been made to create a building that will not compete with its neighbour and will be of an acceptable and good design within the setting of a Grade II listed building. Within the constraints of planning, and wider considerations the proposals are considered to be an acceptable compromise. Moreover the design, scale and materials are in accordance with planning policy making use of a varied materials palette and using quality design approaches to generate a varied and interesting building.

On the most important two elevations (south and east) extra stone has been added to the elevations to help break up the render. A necessary concession to achieve this was the use of less stone on the west elevation, which was not considered to be a prominent elevation within a historic context.

\* Other material considerations.

The proposals have been subject to discussions on the lawful use of the assisted living unit again. The application has been submitted with a counsel opinion to clearly identify them as a C2 use class as per the 2008 permission. There is no reason to reach a different conclusion here than in 2008. To do otherwise would be inconsistent.

In the former West Wiltshire District Council area there is no policy requirement for any social contributions over and above the extant scheme (these have been paid in full). The comments of community services in regards to the application are noted. They support the scheme but would have liked to see a 30% contribution of the assisted living units to be affordable. However in this area there is no planning policy to support this and so the request cannot be reasonably followed through. In short no commuted sums are necessary from this development.

Issues of ecology have been given detailed consideration and there would be no harm. In order to enhance wildlife opportunities as required by PPS9 a condition in regards to provision of bat boxes has been included. This accords with the ecologist advise.

The necessary relocation of an electricity substation has proven to be a matter of contention through the application process. It has to be relocated as the care home would block the existing access. Access must be maintained for servicing so it needs to be relocated. This was initially located to a point most remote from residential properties (it is currently abutting a home on Bath Road), however due to the impact on the setting of Berryfield House it has been resited to within the care home car park area. This final location poses no significant concerns and would not affect any amenity interests. It has been stated that cabling will run up the driveway of the site and therefore not affect protected trees and their roots.

The public consultation process has raised concern over the level of consultation that has been carried out. There are two stages to the consultation process. Firstly the developer independently carried out consultations, the extent of this was limited though and below that suggested by Council officers. Whilst this may be regrettable, it does not represent any reasonable grounds for refusal or delay of the application. The developers did carry out pre-application consultation and whilst the extent of their consultation may be criticised, it has not, in your officer's view, been unlawful, nor does it constitute a reason for refusal of the application.

The second stage is carried out statutorily by the Council once the application has been accepted as valid and is the start of the formal application process. In this case the proposals were advertised in the Wiltshire Times, 2 site notices were erected and 66 local residents were sent letters. It is acknowledged that erroneously some letters were not initially sent out. This error was pointed out by the public and swiftly addressed, with those affected allowed a full 21 days to comment before the previous meeting. A further criticism has been that one of the two site notices was erected opposite the entrance rather than at the entrance to the site and that it is the same size as any other planning site notice whether it is for a conservatory, works to a tree or some sort of major development. This is not considered to have prejudiced anyone and the sign was at a location and of a size which was perfectly acceptable. Overall the public consultation process for the formal application has been greater than statutorily required and moreover it has been proportionate and reasonable relative to the scale of development. Local residents have not been prevented from having an opportunity to comment on the application and to have those views taken into account by the Council.

Two counsel opinions have been submitted in the course of the consultations on behalf of an objector to the scheme and the issues have been summarised in the public consultation section of this updated committee report. Your officers have given these very careful consideration and remain of the view that the scheme should be recommended for permission subject to conditions.

Negotiations have continued through the application process (in part due to the public and other consultation responses) and resulted in modest improvements to the scheme, addressing some (not all) of the points of objection. The application has therefore been subject to some minor non-material revisions during the application process. These revisions are deemed to be very minor, they would address some of the objection and in the interests of having an expedient decision no further public consultation has been conducted.

The proposals have been subject to a revised Flood Risk Assessment (FRA) and comments from the Environment Agency. The revised FRA states that thresholds on the southern part of the site will be set at a minimum of 150mm about ground level rather than 300mm as originally suggested. To facilitate this change a surface water soakaway system will be designed with a storm design return period of 1 in 30 years to provide sufficient storage volume to avoid surface water flooding. No significant concerns exist over this issue. A proportionate approach is advocated in this instance and as such conditions are suggested consistent with the planning history and EA guidance to allow the Council flexible control on surface water drainage matters and threshold levels.

\* Summary and conclusions

Ultimately the determination of this application is a balancing exercise. It is clear that the principle of the development is not at issue, rather it is the detail that needs to be assessed and these details are largely subjective assessments. The main areas of concern have been related to the setting of a Grade II listed building and the numerous protected trees. In regards these two matters the Council's experts have raised no objections to the final proposals. These final proposals have been reached after further negotiations with the developers who have made very modest concessions within their functional and financial limitations.

The scheme has been given very careful consideration and on balance your officers recommend that the application be granted permission subject to conditions.

**Recommendation:        Permission**

**For the following reason(s):**

**The proposed development is located in an area where the Council has already determined that new development is acceptable in principle, most recently through the 2009 planning permission. Whilst the new development will have a greater impact on the setting of the listed building than the earlier approved scheme, the plans still leave Berry Field House with a substantial swathe of undeveloped land to the west and south that will enable the architectural features of the building to be appreciated in a relatively spacious setting. Furthermore, the siting, design (including materials) and overall height of the new development help ameliorate the impact of the new development on the setting of Berryfield house. The Council is satisfied that the wider public benefits that will accrue, including the provision of a health care facility in an area where there is currently an undersupply and growing projected demand for this type of service, together with the economic benefits the project will generate, outweigh the limited impact that the proposal will have on the setting of Berryfield house. The Council is satisfied that the plans satisfactorily address all other planning issues, and will preserve the character and appearance of the conservation area and the amenity of nearby properties. The proposal is therefore considered to be in accordance with the policies of the development plan set out in the planning officer's report and with Government advice.**

**Subject to the following condition(s):**

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

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

- 2 The development shall be carried out strictly in accordance with the hereby approved plans:

Drawing: AL(52)001 Rev B – Location Plan - received on 26 August 2011;  
Drawing: AL(51)001 Rev B – Existing Site Plan - received on 26 August 2011;  
Drawing: AL(51)002 Rev C – Proposed Site Plan - received on 14 November 2011;  
Drawing: AL(11)010 Rev D – Assisted Living Block X Proposed Floor Plans - received on 14 November 2011;  
Drawing: AL(13)010 Rev D – Assisted Living Block X Elevations Part 1 - received on 14 November 2011;  
Drawing: AL(13)011 Rev D – Assisted Living Block X Elevations Part 2 - received on 14 November 2011;  
Drawing: AL(11)011 Rev B – Assisted Living Block Y Proposed Floor Plans - received on 26 August 2011;  
Drawing: AL(13)012 Rev C – Assisted Living Block Y Elevations - received on 14 November 2011;  
Drawing: AL(12)001 Rev C – Proposed Site Sections - received on 14 November 2011;  
Drawing: AL(11)001 Rev C – Care Home Ground Floor Plan - received on 14 November 2011;  
Drawing: AL(11)002 Rev B – Care Home First Floor Plan - received on 26 August 2011;  
Drawing: AL(11)003 Rev B – Care Home Second Floor Plan - received on 26 August 2011;  
Drawing: AL(11)004 Rev B – Care Home Third Floor Plan - received on 26 August 2011;  
Drawing: AL(11)005 Rev B – Care Home Roof Plan - received on 26 August 2011;  
Drawing: AL(13)001 Rev C – Care Home Proposed Elevations Part 1 - received on 14 November 2011;  
Drawing: AL(13)002 Rev C – Care Home Proposed Elevations Part 2 - received on 14 November 2011;  
Drawing: AL(52)049 Rev A – Relationship to Berryfield House - received on 14 November 2011;  
Drawing: AL(52)048 Rev A – Relationship to 91 Leigh Park Road - received on 14 November 2011;  
Drawing: SK(13)004 Rev A – Home mass comparison - received on 28 November 2011;  
Drawing: AL(11)020 Rev C – Proposed Substation and Bin Stores - received on 14 November 2011;  
Drawing: 920 Rev C – Landscape Proposals Sheet 1 of 2 - received on 14 November 2011; and  
Drawing: 920 Rev B – Landscape Proposals Sheet 2 of 2 - received on 14 November 2011.

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

- 3 The occupation of the development shall be limited to Class C2 Residential Institutions.

REASON: In the interest of proper planning of the area and to ensure that the units remain in perpetuity for those in need of care.

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

West Wiltshire District Plan 1st Alteration 2004 - POLICY: C31a.

- 5 No development 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 occupied

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

West Wiltshire District Plan 1st Alteration 2004 - POLICY: C31a and C32

- 6 No works shall commence on site until details of all windows, rooflights and doors have been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include depth of reveal, details of heads, sills and lintels, elevations at a scale of not less than 1:10 and horizontal/vertical frame sections (including sections through glazing bars) at not less than 1:2. The works shall be carried out in accordance with the approved details.

REASON: In the interests of good design.

West Wiltshire District Plan 1st Alteration 2004 - POLICY: C31a

- 7 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: In the interests of the amenities of the area and to minimise unnecessary light spillage above and outside the development site.

West Wiltshire District Plan 1st Alteration 2004 - POLICY: C35 and C38

- 8 No development shall commence on site until details of the proposed ground floor slab levels have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved levels details.

REASON: In the interests of visual amenity.

West Wiltshire District Plan 1st Alteration 2004 - POLICY: C31a and C38

- 9 Provision shall be made within the site for the disposal of surface water so as to prevent its discharge onto the highway details of which shall have been submitted to and approved in writing by the Local Planning Authority.

REASON: In the interests of highway safety.

- 10 No development shall be commenced until a scheme for the provision of foul and surface water disposal/drainage has been submitted to and approved in writing by the Local Planning Authority. Details shall include a timetable for implementation. The surface water drainage scheme for the site shall be based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development shall be submitted to and approved in writing by the local planning authority as part of any submitted scheme. The scheme shall subsequently be implemented in accordance with the approved details before the development is first occupied.

REASON: To ensure that the development is properly serviced.

POLICY: West Wiltshire District Plan 1st Alteration (2004) Policies U1a and U2.

- 11 No development shall commence until a scheme for flood proofing has been submitted to and agreed in writing by the local planning authority. The scheme shall be informed by the surface water drainage proposals and include details to address any potential surface water flooding.



REASON: To reduce flood risk to the proposed development.

POLICY: Planning Policy Statement 25: Development and Flood Risk.

- 12 Inspection manholes shall be provided and clearly identified on foul and surface water drainage systems in accordance with a scheme to be submitted to and approved by the Local Planning Authority.

REASON: To enable discharges from individual premises or buildings to be inspected and sampled.

POLICY: West Wiltshire District Plan 1st Alteration (2004) Policies U1a and U2.

- 13 No development shall commence on site until details showing ventilation and extraction equipment within the site (including details of its position, appearance and details of measures to prevent noise emissions) have been submitted to and approved in writing by the Local Planning Authority. The ventilation/extraction equipment shall be installed prior to the building hereby approved being first occupied and shall thereafter be maintained in accordance with the approved details.

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

West Wiltshire District Plan 1st Alteration 2004 - POLICY: C38  
Planning Policy Guidance 24: Planning and Noise

- 14 The development shall be carried out as specified in the approved Arboricultural Method Statement (AMS) dated August 2011, and shall be supervised by an arboricultural consultant.

REASON: To prevent trees on site from being damaged during construction works.

- 15 A pre-commencement site meeting shall be held and attended by the developer's arboricultural consultant, the designated site foreman and a representative from the Local Authority to discuss details of the proposed work and working procedures prior to any demolition, site clearance and any development. Subsequently and until the completion of all site works, site visits should be carried out on a monthly basis by the developer's arboricultural consultant. A report detailing the results of site supervision and any necessary remedial works undertaken or required shall be submitted to and approved in writing by the Local Planning Authority. Any approved remedial works shall subsequently be carried out under strict supervision by the arboricultural consultant following that approval.

REASON: In order that the Local Planning Authority may be satisfied that the trees to be retained on-site will not be damaged during the construction works and to ensure that as far as possible the work is carried out in accordance with current best practice.

- 16 Notwithstanding the submission of the landscape proposals, 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:-

- indications of all existing trees and hedgerows on the land;
- details of any to be retained, together with measures for their protection in the course of development;
- A detailed planting specification indicating all species, supply and planting sizes and planting densities, ground preparation, spread of all trees and hedgerows within or overhanging the site, in relation to the proposed buildings, roads, and other works;
- finished levels and contours;
- means of enclosure;
- car park layouts;
- other vehicle and pedestrian access and circulation areas;
- hard surfacing materials;

- minor artefacts and structures (e.g. furniture, play equipment, refuse and other storage units, signs, lighting etc);
- proposed and existing functional services above and below ground (e.g. drainage, power, communications, cables, pipelines etc indicating lines, manholes, supports etc);
- retained historic landscape features and proposed restoration, where relevant.

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

- 17 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 buildings 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.

- 18 No development shall commence on site until a landscape management plan, including long-term design objectives, management responsibilities and maintenance schedules for all landscape areas (other than small, privately owned, domestic gardens) has been submitted to and approved in writing by the Local Planning Authority. The landscape management plan shall be carried out in accordance with the approved details.

REASON: To ensure the proper management of the landscaped areas in the interests of visual amenity.

- 19 The development shall not be occupied until a scheme for ecological enhancement has been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall include the provision of bat boxes.

REASON: In order to enhance wildlife opportunity at the site.

POLICY: Planning Policy Statement 9: Biodiversity and Geological Conservation.

- 20 No development shall commence on site until visibility splays have been provided between the edge of the carriageway and a line extending from a point 2.4 metres back from the edge of the carriageway, measured along the centre line of the access, to the points on the edge of the carriageway 43 metres to the west and 29 metres to the east from the centre of the access in accordance with the approved plans. Such splays shall thereafter be permanently maintained free from obstruction to vision above a height of 0.6 metres above the level of the adjacent carriageway.

REASON: In the interests of highway safety.

- 21 No development shall commence until full details of any improvements to the site access and pedestrian facilities have been submitted to and approved in writing by the Local Planning Authority. Subsequently and prior to the first occupation of the development, the improvements to the access and provision of pedestrian facilities, parking and turning areas shall be completed in accordance with the approved details.

REASON: In the interests of highway safety.

- 22 During the construction phase of this redevelopment, no plant machinery or equipment shall be operated or repaired so as to be audible at the site boundary outside of the hours of 0730 to

1800 Mondays to Fridays and 0800 to 1300 hours Saturdays, or at any time on Sundays or Bank Holidays.

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

POLICY: West Wiltshire District Plan 1st Alteration (2004) Policies C36 and C38.

- 23 Oil or chemical storage facilities should be sited in bunded areas. The capacity of the bund should be at least 10% greater than the capacity of the storage tank or, if more than one tank is involved, the capacity of the largest tank within the bunded area. Hydraulically inter-linked tanks should be regarded as a single tank. There should be no working connections outside the bunded area.

REASON: To prevent pollution of the water environment.

NOTE: Any oil storage facility of 200 litres or more must include a bund, and comply with the Oil Storage Regulations ("The Control of Pollution (Oil Storage)(England) Regulations 2001").

**Informative(s):**

- 1 The surface water drainage scheme shall include:
- \* Management of all events up to and including the 1 in 100 year plus climate change storm;
  - \* Detail, sizing and location of soakaways;
  - \* Details, sizing and location of any other drainage features (following the SuDS hierarchy);
  - \* Detail of flow routes
  - \* Details of how the scheme shall be maintained and managed after completion;
  - \* Details of how the development will be protected from any existing flood risk from surface water flooding;
  - \* Evidence to show no increase in offsite surface water flooding.

The scheme shall be based on sustainable drainage principles.

For further information you are advised to contact the Environment Agency.

- 2 During the construction phase precautions should be taken to reduce the risk of pollution to the water environment. This should include measures to address contaminated run-off, the storage of oil chemicals and hazardous substances, managing construction waste and the routing of heavy vehicles. Further guidance and advice is available on the Environment Agency's website in the Pollution Prevention Guidelines section – <http://www.environment-agency.gov.uk/netregs/links/63875.aspx>

- 3 Wessex Water has advised that:

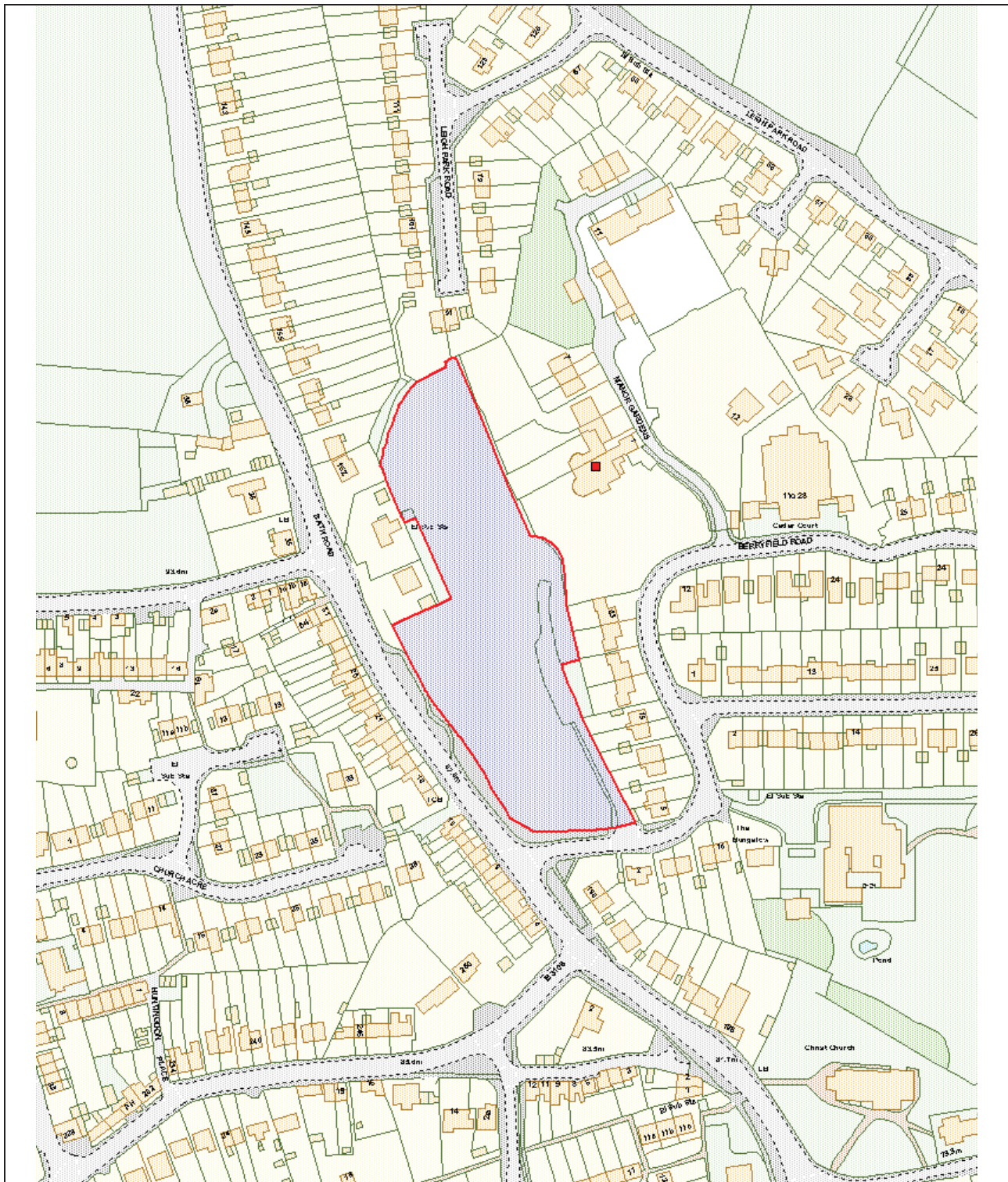
DEFRA on behalf of the Government, are implementing changes whereby, it will be mandatory that all new foul sewers and lateral drains (where outside the serviced property boundary) will have to be designed and constructed in accordance with a new Mandatory Build Standard (MSB, for which the guidance document "Sewers for Adoption" 7th Edition (SFA 7th) is being prepared.

Any new connection to the public sewerage system under Section 106 of the Water Industry Act 1991, cannot then be made until the applicant has entered into a signed Section 104 Adoption Agreement with the Water Company. Application forms, guidance notes and processes will be suitably amended and available when required.

Buildings higher than two storeys should have pumped storage.



**Background Documents  
Used in the Preparation of  
this Report:**



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MSA: 100022961

## REPORT TO THE WESTERN AREA PLANNING COMMITTEE

|                            |                                                                                                                                   |                                                               |                 |
|----------------------------|-----------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------|-----------------|
| <b>Date of Meeting</b>     | 04.01.2012                                                                                                                        |                                                               |                 |
| <b>Application Number</b>  | W/11/01697/FUL                                                                                                                    |                                                               |                 |
| <b>Site Address</b>        | Land West Of Biss Farm West Ashton Road West Ashton Wiltshire                                                                     |                                                               |                 |
| <b>Proposal</b>            | Application to renew planning permission 05/00744/FUL to allow time to submit Reserved Matters pursuant to reference 98/01149/OUT |                                                               |                 |
| <b>Applicant</b>           | Persimmon Homes (Wessex) Ltd                                                                                                      |                                                               |                 |
| <b>Town/Parish Council</b> | West Ashton                                                                                                                       |                                                               |                 |
| <b>Electoral Division</b>  | Southwick                                                                                                                         | <b>Unitary Member:</b>                                        | Francis Morland |
| <b>Grid Ref</b>            | 386962 157248                                                                                                                     |                                                               |                 |
| <b>Type of application</b> | Full Plan                                                                                                                         |                                                               |                 |
| <b>Case Officer</b>        | Mr Kenny Green                                                                                                                    | 01225 770344 Ext 01225 770251<br>kenny.green@wiltshire.gov.uk |                 |

### Reason for the application being considered by Committee

This application is brought back to Committee following its deferral at the Western Area Planning Committee meeting on September 7th. Members may recall that an identical application, W/10/03031/FUL was refused at that meeting for the following reason:

There have been material changes in circumstances since the original planning permission was given, including the lack of the highway network as originally proposed.

Since that decision was taken, the applicants have recently lodged an appeal against this refusal. They have asked for the matter to be dealt with at a public inquiry, although the Planning Inspectorate has indicated that the appeal will be dealt with at a Hearing. If the appeal goes ahead, the Council will have to provide evidence by 30th January to substantiate the reason for refusal.

Officers have been investigating what changes have occurred since the original planning permission was granted in 1998 in relation to the highway network, and have also been looking at legal advice from the Council's legal team in relation to the Council's ability to successfully defend the refusal of the identical application.

#### Highway Network Changes

The original planning permission for this site was granted in October 1998. It was subsequently renewed in 2003 and then again in 2005.

At the meeting in September, mention was made by members of the Staverton Diversion and the Westbury bypass. The Staverton diversion was removed from the County Council's programme in December 1998 and since then has remained 'as an aspiration for the town'. The originally proposed route was built over following a Planning Inspector's approval of a residential scheme at Staverton Marina in 2005. The Staverton Diversion has therefore not been part of the Council's programme for over 14 years and was not part of its programme when the permission for this site was renewed in 2003 or 2005. The Westbury bypass was refused planning permission by the Secretary of State in 2009. This is a more recent decision, but in making it, the Secretary of State noted that the transport need for the proposal had not been adequately justified. The other major change that has happened to the highway network in the vicinity since the original permission has been the completion of the then proposed A350 Semington bypass, which has been an improvement to the highway network.



Given this background, it is difficult to see how the Council can robustly substantiate the reason for refusal it advanced in September.

## Legal Advice

At the meeting of 7 September 2011 when the identical application was considered, the Council's Head of Service for Sustainable Transport attended the meeting. He advised that the highway works included in the proposed scheme would be broadly proportional to the impact of the proposed development, and that there would be no radical re-working of the existing junction at Yarnbrook but the improvements would achieve as much capacity from the junction as possible.

Whilst Members are not bound to follow officer advice, they must show that they have reasonable planning grounds to take a decision contrary to such advice. The Council must substantiate its reason for refusal by producing relevant evidence which demonstrates what changes in circumstances have taken place since this matter was last brought to the committee and an extension was granted in June 2005.

The minuted reasons for refusal of the parallel application considered at the last committee meeting on 7 September 2011 are in general terms and do not provide a detailed justification. Without such substantial evidence, there is a risk that on any appeal, an inspector may not only allow the appeal, but find that unreasonable behaviour resulting in unnecessary expense, (as described in Circular 03/2009) has been demonstrated and make a full award of costs.

Potential liability to pay costs in a planning appeal is a material consideration that should be taken into account in determining a planning application. A Decision Notice for this application should only be issued after the application has been carefully considered and proper consideration given to all material planning considerations including the risk of an appeal and the risk and scale of an award of costs.

Section 250 (5) of the Local Government Act 1972 enables the Secretary of State to make "orders as to the costs of the parties at the inquiry and as to the parties by whom the costs are to be paid". The legislation also enables costs to be awarded against any party in proceedings which do not give rise to a local inquiry, such as informal hearings or appeals conducted by written representations.

To minimise the risk of an adverse award the circular advises that:

"...parties should be willing to accept the possibility that a view taken in the past can no longer be supported and act accordingly at the earliest opportunity, even at the risk of an application for costs being made where, for example, an appeal or reason for refusal of planning permission is withdrawn at an early stage"

The most common examples of unreasonable behaviour include failure by the planning authority to substantiate a stated reason for refusal of planning permission. Councils will be expected to produce evidence to show clearly why the development cannot be permitted.

Planning authorities are equally at risk of an award of costs against them if they prevent or delay development which should clearly be permitted having regard to the development plan, national policy statements and any other material considerations.

The key test will be whether evidence is produced on appeal which provides a respectable basis for the authority's stance, in the light of *R v SSE ex parte North Norfolk DC* 1994 [2 PLR 78].

If officers' professional or technical advice is not followed, authorities will need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support the decision in all respects. If they fail to do so, costs may be awarded against the authority.

Councils are expected to give thorough consideration to relevant advice from consultees such as a highway authority, before determining a planning application. While it is the primary responsibility of

planning authorities to either accept or reject that advice, they should clearly understand the basis for doing so and should provide, where necessary, a clear and rational explanation of the position taken.

This application before the committee is a fresh application; although it should be determined in full acknowledgement that an existing, extant permission exists for the site. Although the application is labelled as for an 'extension', more formally, it is an extension of time for the implementation of a planning permission by grant of a new permission for the development authorised by the original permission.

The separate circular advice on these kinds of applications is that "local planning authorities should take a positive and constructive approach towards applications which improve the prospect of sustainable development being taken forward quickly".

Local planning authorities may refuse applications to extend the time limit for permissions where changes in the development plan or other relevant material considerations indicate the proposal should no longer be treated favourably. The officers report indicates that in their view there are no such changes in circumstances that are either (a) materially so significant as to warrant refusal of the application, or (b) that cannot be overcome by the imposition of planning conditions that will secure those highway improvements that have been agreed with the applicant, and that are referred to elsewhere in this report .

The essential point being taken by your officers is that what is being sought in order to enable the development to proceed, is proportionate to the impact of the development on the highway network. In those circumstances the officers suggest that it would be unreasonable to require further provision to be made, assuming that such further provision is actually identified and detailed, which is not currently the case, having regard to the reason for refusal on the parallel earlier application.

## **1. Purpose of Report**

To consider the above application and to recommend that an extension of time for a previously approved outline development under reference 98/01149/OUT be granted.

### Neighbourhood Responses

13 letters of third party representations have been received on this application (although it is acknowledged that 44 representations were submitted in respect of the earlier duplicate submission that was refused in September).

West Ashton Parish Council Response -- Following the submission of the TA, the Parish Council reaffirmed its objection to the development proposal for the reasons stated within section 7.

Trowbridge Town Council Response – no objection

## **2. Main Issues**

The main issue to consider is whether or not there have been any material changes to circumstances that would indicate a need to re-visit the decision made in respect of application reference 05/00744/FUL.

## **3. Site Description**

The land which is the subject of this application relates to 30 acres (12.1 hectares) of land at West Ashton Road, Trowbridge. The land is currently used for agricultural purposes but it is allocated in the adopted West Wiltshire District Plan as Site E1A - New Business Park. The site is roughly triangular in shape and is located on the eastern side of the public highway.

The adopted West Wiltshire District Plan -1st Alteration identifies the site for future employment use. This followed on from the former District Council's decision to grant outline permission in 1998. The Local Plan states that "the site is well related to the town, residential areas and the town centre, whilst not being so close as to cause environmental or amenity problems. The site has no adverse

implications for the interests of nature conservation. In particular the ancient semi-natural woodland of Biss and Green Lane Woods. The site offers an excellent opportunity to provide an attractive landscaped site, integrated with the proposed country park and adjacent residential areas, which could cater for a wide range of employment uses."

#### **4. Relevant Planning History**

On 8 October 1998 outline planning permission was granted for the development of land to the west of Biss Farm, West Ashton Road for employment uses B1, B2 and B8. All matters were reserved for subsequent approval under application ref: 98/01149/OUT.

Following this, permission was granted for 01/01617/FUL on 6 February 2003 via an application made under Section 73 of the Town and Country Planning Act 1990 (as amended) for the continuation of the 1998 permission without compliance with the standard 3 year reserved matters period.

On 7 June 2005, application 05/00744/FUL was approved to vary Condition 1 and the deemed time limits covering phasing and the stated time period to submit reserved matters attached to 98/01149/OUT. This approval required the applicant/developer to submit the necessary reserved matters within 6 years (i.e. prior to 7 June 2011).

As reported above, a duplicate application ref. W/10/03031/FUL was refused on September 7th and an appeal against this decision has been lodged.

In addition, and in pursuance to the (extended) outline approval, a reserved matters application was submitted on 31 May 2011 and carries the reference W/11/01663/REM. This application is still pending and is not yet at a stage where it can be reported to the planning committee for determination (since it too, has been called to committee by the local ward member).

#### **5. Proposal**

As part of approving the 05/00744/FUL application, the former District Council agreed to specify that reserved matters needed to be submitted before the expiration of 6 years from the date of the permission i.e. before 6 June 2011.

At the time, the Council accepted the applicants request for an extended time period for compliance in recognising that the development of the application site for employment development was [and remains] "fundamentally dependant" upon the delivery of residential development on land south of Paxcroft Mead (Policy H11) and the Hilperton Relief Road (Policy T5).

The applicants seek to obtain an extended time limit of 5 years, compared to the standard 3 years, for them to submit the necessary reserved matters to the Council.

Under this application, permission is sought to allow an extension of time for the submission of reserved matters following on from the Council's decision to grant outline permission (98/01149/OUT) - an application which has been renewed twice under references 01/01617/FUL and 05/00744/FUL (both of which were section 73 applications).

Through amendments made to The Town and Country Planning (General Development Procedure Order, which the new Coalition Government consolidated in October 2010 to form the Town and Country Planning (Development Management Procedure) (England) Order 2010, greater flexibility has been added to applicants and developers to apply for an extension of time to implement approved development schemes during a period of continued economic decline. It is widely recognised that there has been a sharp downturn in the commencement of approved schemes and to avoid developers having to bear further costs and delays (if a fresh planning application was required), the Government made amendments to the GDPO. The fact that this site has not yet had reserved matters approved should not materially influence the determination of this application. Following the Government revisions to planning regulations, the key points are:-

Has the development (as previously approved) commenced?

Is the development (as previously approved) extant (i.e. time limits have not yet lapsed)?



In this case, the answer to both points is no; and therefore, the Council must duly consider the planning merits of allowing an extension of time for reserved matters to be approved before development commences on site.

The applicants have stated that:

The Business Park is intrinsically linked to the East Trowbridge Residential development. As part of negotiations on the East Trowbridge development, a package of Highway Works was very recently agreed that will serve both the residential development and the Business Park.

How the Infrastructure is to be funded:-

1. The delivery of the Business Park will be residential-led.
2. It is the residential development that will fund the infrastructure to serve the employment site, including the Hilperton Relief Road (HRR) the East Trowbridge Distributor Road (ETDR) and improvements to West Ashton Road.
3. There is no other funding currently available to deliver this infrastructure without the residential development.
4. In view of current levels of demand for new employment floorspace combined with the uncertain economic conditions it is highly unlikely that the development of the Business Park will proceed on a speculative basis and in advance of the residential development.
5. Unless a very large employer unexpectedly came to the town then it is highly unlikely that a tenant of the Business Park would be willing to fund improvements to West Ashton Road and the junction off West Ashton Road.

In view of the above, it can be seen that there is no alternative funding mechanism that would suggest that the Business Park will be implemented in advance of the residential development.

Reasons for the delay in implementing the permission:

6. Persimmon has been pursuing the East Trowbridge site for residential development for over 10 years through the Local Plan process, and then with a planning application. The planning permission was only issued in December 2010.
7. Persimmon also had to secure planning permission for the Hilperton Relief Road (HRR).
8. It is only now that the planning permissions have been issued that the company can proceed with the residential development and the related infrastructure (which the Business Park is also reliant upon).
9. The core business of Persimmon Homes is house building and the company will make an early start on the East Trowbridge residential development. The residential development will commence before any employment development at the Business Park.
10. Nonetheless Persimmon will continue to market the Business Park land in order to maximise the chances of finding tenants.

It can therefore be seen that there are legitimate reasons that explain why the Business Park development has been delayed and why it has not been delivered within the timescales previously envisaged when the planning permission was originally granted, and indeed when it was later renewed.

The required Highway Works:

11. The Council has included provisions in the Section 106 Agreement for the East Trowbridge development to ensure that the necessary Highway Works (listed in Schedule 1) are provided as and when they are required (part 6 covers the timing mechanisms).

12. The scheme of Highway Works was devised in the knowledge that they would also need to accommodate the Business Park proposals.

13. The list of Highway Works does not include Yarnbrook Roundabout as it was agreed that such improvements would not achieve any material improvement.

14. Members are aware that the Site Allocation (Policy E1A) makes reference to the developer undertaking:-

"..any necessary improvements to the West Ashton Road, its junction with the A350 and the Yarnbrook Roundabout associated with the employment development."

Following the submission of the Traffic Assessment, it is recommended that improvement works are undertaken at the Yarnbrook Roundabout; and that such improvement works be subject to a stand alone planning condition.

15. The aforementioned s.106 does secure improvements to West Ashton Road (see paragraph 1.5 of Schedule 1).

It can therefore be concluded that the package of Highway Works that has already been agreed as part of the residential development is appropriate and sufficient in all the circumstances.

Timing of Highway Works:

16. The s.106 requires, inter alia:-

a. No dwelling to be occupied until the Highway Works are commenced (see Clause 6.2 and Schedule 1).

b. The improvements to West Ashton Road will be undertaken prior to the occupation of the 50th dwelling (Clause 6.12.3)

c. The Hilperton Relief Road (HRR) and East Trowbridge Distributor Road (ETDR) must be open before:-

(i) 450 dwellings are constructed, or

(ii) 225 dwellings and 50% of the Gross Floor Area of the Business Park (Clause 6.7)

and in any event:-

(iii) 4 years from the first residential occupation (clause 6.8)

17. These trigger mechanisms guarantee the timely delivery of highway infrastructure and thus enable the residential and employment developments to go ahead as planned.

18. The residential development will be built out from the north. In the early years it will also be accessed by residents only from the north.

19. Consistent with this, the s.106 prevents houses being accessed via the southern stretch of the ETDR (i.e. the link between West Ashton Road and the roundabout at the southern end of the East Trowbridge residential area) before the occupation of the 225th dwelling.

20. Insofar as the residential development is concerned, Persimmon is unlikely to have the access off West Ashton Road in place prior to the 225th dwelling (other than as a temporary construction access).

21. Persimmon can build 450 dwellings before needing to complete the ETDR.

22. Regardless of this, the improvements to West Ashton Road would be delivered very early (50th dwelling occupation) which will be of benefit to the wider community well before any residential traffic would be using West Ashton Road.

It can therefore be concluded that the S.106 already in place will ensure that all of the necessary infrastructure will be delivered, and that it will be delivered in accordance with previously agreed trigger points to ensure that there is sufficient infrastructure in place to serve both developments when it is needed.

Time limits for the Business Park Planning Permission:

At the committee meeting on 8 December 2010, some Members of the Planning Committee suggested that the planning permission should allow a period of 3 years for submission of reserved matters for the Business Park mainly because of previous delays in bringing the site forward. However as explained above the main reason for the delay has been the delays associated with the East Trowbridge residential development, which were also prolonged by the downturn in the economy.

Whilst Persimmon will continue to market the site and seek to bring it forward as soon as is practicable, it is considered that the circumstances in this case indicate that a longer time period would be more appropriate for the following reasons:-

23. Given that the Business Park will be residential led, it will take time for Persimmon to:-

- a. Secure Approval of Reserved Matters for the housing
- b. Undertake preliminary works on the East Trowbridge site
- c. Start delivering dwelling units

24. Persimmon is currently in the process of buying the land for the residential development and it is hoped that work will start on site within 1 year. Notwithstanding this, it is estimated that it would take circa 4 years for Persimmon to deliver 450 dwellings (this being the trigger point for the HRR and ETDR to be in place and operational including the roundabout and access road that would serve the Business Park).

25. Prospective tenants for the Business Park are unlikely to show interest in a site with no access in place.

26. If the access road off West Ashton Road will not be in place for up to 4 years then there is no realistic prospect of all reserved matters for a 12.1ha Business Park being submitted within 3 years.

27. The Applicant would not be able to renew the permission again in three years time as the legal provisions for renewing permissions do not apply to permissions granted post 1st October 2009.

28. If the planning permission lapses in 3 years then a fresh application would need to be submitted. This would have cost and resource implications for both the Applicant and the Local Planning Authority. It would also give rise to uncertainty which will unsettle potential tenants.

29. If there is a lack of certainty or the planning permission lapses in 3 years time employers will look elsewhere. It will give other towns a comparative advantage over Trowbridge which will undermine the efforts to regenerate the town.

30. There is no reason to suggest that a longer time period would prejudice important future planning decisions when:-

- a. The site remains the preferred location for employment development for the purposes of the emerging LDF
- b. There are no other comparable employment sites

Overall it is considered that there is no obvious planning reason for imposing such a short time limit on a strategic employment site particularly when the related infrastructure is dependent on other development and take up rates on employment sites (which are already low) will continue to be constrained by the uncertain economic climate.

What if the business Park is built out first?

The Applicant is mindful that Members asked what would happen if the residential development is never implemented and the Business Park is developed out first.

This scenario is highly unlikely because of the Business Park being residential led and there being no obvious alternative source of funding for road infrastructure. The only scenario where the employment might come forward early is if a single large employer was to express an interest in the site. No such interest currently exists.

It is however recognised that it would be in the interests of good planning to address the matter for completeness.

It is considered that the matter could be addressed with the use of a Grampian Condition which requires a scheme of works to be agreed before development commences and for the phasing of those works to be agreed and subsequently implemented to ensure that they are in place at the appropriate time.

As part of the process for the earlier application, but also applying to this proposal, the applicant commissioned a Transport Assessment and this was duly submitted to the Council on 19 May 2011.

The key conclusions contained within the TA are:

As an allocated site for a new business park, the site is recognised as a committed development as part of the submitted 2016 model forecasts. It should be duly noted that improvements to the highway network are proposed as part of committed developments. The improvements which have been included in the 2016 forecast modelled highway network are as follows:

The Hilperton Relief Road - connecting the A361 Trowbridge Road with Canal Road/Wyke Road/Horse Road;

The East Trowbridge Distributor Road (EDTR) - connecting the A361 Hilperton Drive with West Ashton Road;

The new signal controlled junction on Bythesea Road providing access to "The Gateway" retail development on the former Wincanton site;

The new roundabout on British Row serving the Sainsbury's retail store on part of the former Ushers site;

A new roundabout on Timbrell Street serving a housing development site at the Brewery Quarter site;

A new priority junction on Bradford Road providing access to Bradford Road employment site;

A new signal controlled junction on Town Bridge providing access to proposed housing and employment on land at the former Bowyers site;

A new priority junction on the proposed EDTR providing access to the proposed West Ashton employment site.

Both the Hilperton Relief Road and the EDTR are considered important committed highway improvements which will result in changing traffic patterns in Trowbridge. Traffic generation for the committed developments and vision sites have been estimated from trip rates from either locally observed data, the TRICS database or from the TA's produced for specific developments.

The predicted traffic distribution associated to the West Ashton Road Business Park is assumed to be the same as those zones in the traffic model representing existing employment at the White Horse Business Park and the Canal Way Trading Estate.

The TA submits that the surrounding local highway network can accommodate the predicted traffic flows associated with the proposed business park, without any adverse impact on the operation of the network in either the AM or PM peak periods in the 2016 assessment year.

To help mitigate the impact of the proposed business park, it is recommended that capacity improvements should be delivered to both the A361 County Way/West Ashton Road Roundabout and the A350/A363 Yarnbrook Roundabout. The TA submits that improvements to the operation of these roundabouts would reduce queuing and delays.

The delivery of proposed development at East Trowbridge provides both the new roundabout junction at West Ashton Road and the distributor road which connects West Ashton Road with the A361 at Leap Gate. Both of which are pre-requisites of the planning permission for the West Ashton Business Park.

The East Trowbridge development would also deliver the Hilperton Relief Road and off-site highway improvements on West Ashton Road and its junction with the A350 at the West Ashton crossroads.

A satisfactory means of access can be provided to serve the proposed employment development which meets appropriate design standards. The access will be taken directly from the proposed Eastern Distributor Road via two priority junctions.

The submitted TA submits that a sustainable form of development could be achieved which would minimise the need to travel by car and encourage employees and visitors to walk, cycle or travel by bus. A Draft Framework Travel Plan has been produced alongside the TA, which details measures aimed at increasing travel by these modes. The TA states that a 3m wide footway/cycleway would be constructed to the north of the proposed Eastern Distributor along the site's southern boundary which will continue within the site along its western boundary before connecting with the existing footway to the west of West Ashton Road via a new uncontrolled pedestrian crossing. A 2 metre wide informal path running along the sites northern/eastern boundary along the line of the watercourse is proposed providing a further connection to West Ashton Road from the proposed Eastern Distributor Road.

The proposed Eastern Distributor Road provides the opportunity for bus operators to re-route their bus services. It is envisaged that a significant number of bus services, both existing and new services, would use the new road link providing employees of the proposed business park with increased travel options. Bus stops are proposed on both sides of the Eastern Distributor Road in the vicinity of the site which would ensure that all employees and visitors on the site would be within the recommended 400 metre walking distance to a bus stop.

## **6. Planning Policy**

### Government Guidance

Ministerial Statement on Planning for Prosperity - March 2011

PPS1 - Delivering Sustainable Development

PPS4 - Planning for Sustainable Economic Growth

PPS9 - Biodiversity and Geological Conservation

PPG13 Transport

Wiltshire Structure Plan 2011

DP4 Main Settlements

West Wiltshire District Plan - 1st Alteration 2004

E1A New Employment Allocations

T4B New Distributor Roads

## **7. Consultations**

West Ashton Parish Council - Objects to the development proposal on the following grounds:

In the first instance we would like to refer to the planning permission granted on 7 June 2005 (W/05/00744/FUL). Due to the already severe congestion between West Ashton, Yarnbrook and Heywood it is essential that if any new permission is granted there should be no dilution of the requirements set out in paragraphs 11, 12, 13, 16 and 19 of the original permission.

Since the Westbury Bypass Inquiry some 18 months ago when approval for a bypass was not approved, no progress has been made in improving the road conditions along the A350. It is imperative therefore that before any work is commenced on the new Paxcroft Mead development or the development land the infrastructure proposals must be met.



Secondly we would like to refer to the Pegasus covering statement - Legal background to the application (page 2) - The original permission was given in 1998, this is now 2010, 12 years later. This application may accord with the criteria set out in the "Legal Background" section but there is no escaping the fact "NO" development has taken place in the 12 years since permission was granted. A reason given was because of the economic downturn, which we suggest only occurred in the past two to three years so is therefore not relevant.

In terms of timing (page 6) (ii), the applicants statement notes that "the HRR must be completed within 4 years or the completion of 450 houses at East Trowbridge". Why is this an option? It appears to afford the developer the opportunity to build 450 houses in 4 years and the HRR may or may not be built at all. In terms of the applicants last paragraph - "In order to take account of the delays ....etc", the Parish Council suggest that this should be rejected since after 12 years of apparent inactivity it seems perfectly reasonable that the developer should commit.

In summary the Parish Council concludes that this application seeks to extend the permission. It suggests an "or" condition for infrastructure i.e. roads. Therefore approval should be subject to a firm infrastructure condition of activity and timescale compatible with the dwelling timescale and clarification of the permission time extension approved if work commences to improve the road infrastructure before the housing and employment development is undertaken.

Prior to the earlier application being reported to the 9 February 2011 committee meeting, the Parish Council raised concerns that the Highways Authority have seemingly dismissed concerns raised about the Yarnbrook Roundabout and have acquiesced to the demands of the applicant to include some improvements to the West Ashton Crossroads. The Highways Authority has not carried out or produced a full transport assessment as the policy requires. It therefore can be assumed that the Highways Authority have not carried out any strategic road infrastructure planning. This is quite worrying and in need of some serious questions being raised in the Council.

The application also talks about marketing the business park but after 12 years already and another 5 years requested is there a real demand here for jobs?

The Council do not have any statistics showing what the Paxcroft Mead development has produced whether in the way of new jobs or for the workforce in the Trowbridge area.

Following the submission of the Transport Assessment, the Parish Council maintained their objection and submits that the findings contained in the long awaited traffic assessment is an over blown document lacking in any substance or realism.

Although there is mention of the massive housing development proposed for the area in paragraphs 2.9, 2.10 and figure 3 of the report, it is obvious very little consideration was given to the affect this would have when associated with the traffic generated by the proposed business park. Also, if the suggested waste disposal facility for this site was also given the go ahead, there would be a substantial increase in HGV traffic and other associated waste transport vehicles.

The proposed eastern distributor road came as no surprise to us, but there appears to be little comprehension that this road will attract traffic not only from the proposed 900 new houses in the area, (this of course is not including the further massive housing extension along the West Ashton Road which we are expecting to see in the Core Strategy report) but also from the neighbouring Paxcroft Mead estate and the Hilperton area.

All of this traffic will come to a grinding halt when it meets the proposed roundabout at the end of the distributor road, for the road from there into Trowbridge is already heavily congested at peak times.

For traffic moving west, the proposals for improving the West Ashton traffic light junction will achieve nothing, for the existing bottleneck at Yarnbrook will cause traffic to back up well beyond the West Ashton traffic lights causing gridlock, which already occurs at peak times.

To suggest that improving the junction at Yarnbrook will bring about the necessary improvements in the traffic flows around that junction is nonsense for the traffic levels are far too heavy to make such a proposal feasible, and would not even be contemplated by a responsible Authority.



It is obvious that nothing short of a bypass to deal with the notorious bottleneck at Yarnbrook will remedy the existing highway deficiencies in the area and it is about time the planners recognised this. The solution is NOT to skirt Yarnbrook from the A350 in the direction of Heywood as any suggestion of resurrecting the Eastern Bypass around Westbury will create fierce local resistance and make Wiltshire Council a laughing stock.

We understand this report was prepared by the Developer's Agent for the Developer's and Wiltshire Council, therefore it is not surprising to us that the proposals fall short both in terms of credibility and realism i.e. there is no clear definition of 'necessary road improvements' a statement quoted several times in the report. Also the Parish Council consider that the period of accident assessments used in the report should cover a longer period of time.

On a purely local note, Bratton Road through the village of West Ashton is already a rat-run as traffic tries to avoid Yarnbrook, a situation that will become even worse if the proposals in this report are adopted. The Bratton Road rat-run already coincides in the morning with parents dropping off children to the Primary School causing gridlock by the volume of traffic.

It goes without saying therefore that this Parish Council considers the TA report is seriously inadequate in its attempt to deal with the traffic issues in the area and should be totally rejected by the Planning Committee whom we hope will not feel pressurised in accepting this report because of the planning deadline for this application.

Trowbridge Town Council - Supports the application.

Members commented that this was an important element in the delivery of growth for the town and for the delivery of infrastructure improvements, that brownfield sites in the town centre were inadequate to provide for all of the needs of the town for additional employment land and would be better suited to residential led and mixed use developments and that many in the town wanted additional employment opportunities and the growth which would deliver improved services.

RESOLVED to approve the recommendation:

That the Town Council considers that the development of employment allocation E1A at West Ashton Road:

- a). Is a significant positive element in the overall strategic development of the town.
- b). Accords with the Town Council's Strategy which supports further development to the South and East of the town, in areas well connected to the A350 whilst close to the town centre as the most sustainable locations for further growth of the town;
- c). Is able to deliver welcomed improvements to local transport infrastructure which make areas to the north of the town better connected to the main A350;

Highways - No highways objection to extension of time of application 05/00744/FUL.

Back in December 2010 on the earlier identical application, Members wished officers to report back on two issues: firstly, the Policy position relating to the implementation of improvements at the West Ashton Crossroads (the junction of West Ashton Road and the A350), and secondly, the position regarding highway improvements at the Yarnbrook roundabout junction of the A350 with A363. The planning application seeks to renew permission for the employment land, identified at Policy E1A of the Local Plan and the recommendation by officers was to approve subject to conditions which were largely in place since the first submission for this site in 1998. The full highway position is covered within paragraph 9.1 below.

The Transport Assessment (TA) was submitted following Members deferral of the earlier application in February 2011. It was noted that at the February planning committee, Members were concerned that the impact of the development on, particularly, the Yarnbrook junction of the A363 with A350, had not been thoroughly established. The wider impact was also of concern when considering that the original planning permission dated from 1998.

The submitted TA provides a comprehensive investigation of the impact on the wider network, with a number of junctions specifically tested for a future year (2016) including all known and committed development within the Trowbridge area, including Trowbridge Vision sites in the Town Centre. It is considered that the TA provides a very robust assessment and offers three specific recommendations:-

1. A Travel Plan draft framework is provided to encourage sustainable access options for the development as it proceeds.
2. Kerblin improvement work is offered at the junction of County Way (A361) and West Ashton Road to deal with over capacity in the future year.
3. Kerblin improvement work is also offered at the Yarnbrook junction (A350/A363), again to deal with over capacity in the future year.

It is important to note that, with all committed development also factored in, the over capacity is identified with or without this particular development and that the Yarnbrook junction identified a capacity issue in the 2009 base year. Minor kerblin improvements will improve traffic flows at both junctions and will therefore improve capacity. These improvements will mitigate the impact of the development and therefore are supported by the Highway Authority. It is also important to note that, by including all committed development within the analysis, a very robust assessment has been made and that the reality is that these impacts will occur over a longer timescale. Also, other committed developments, by virtue of their scale and impact, will not contribute to improvements at either of these junctions.

West Ashton crossroads will be improved via the Section 106 Agreement in support of the housing land and must be constructed before the 50th dwelling is occupied. This junction will operate close to capacity in the future year without the proposed improvement but will operate within capacity once the improvement work is completed. The housing development has, of course, not yet started, but was expected to start this year.

Bearing in mind the delays in proceeding with the development of both the housing land and the business park, and when taking into account the results of the TA, it is now considered appropriate that the three recommendations above are included within a conditional approval for the outline application for the business park.

It is therefore recommended that three additional conditions are added to the original list of conditions. The three conditions are numbered 23-25 and cover improvements to the County Way (A361) junction with West Ashton Road; improvements of the junction between the A363 and the A350 at Yarnbrook and a requirement to submit a Travel Plan.

Condition 11 as attached to approved application 05/00744/FUL, states that "In the interests of highway safety, there shall be no vehicular access to the site other than via a new roundabout on West Ashton Road". Members are advised that officers feel that this condition requires some modification and attention is duly drawn to the revised wording of the same numbered condition attached to this report.

Environment Agency - No objection to the renewal of application 05/00744/FUL

Wessex Water - No comments. An informative necessary.

Head of Spatial Planning - Supports application. In my view, any employment land we are still seeking to bring forward should not be removed from the development plan until such time as it has been implemented. Therefore I would expect this site to be carried forward into the Core Strategy. This site is certainly seen as an important component of the future employment land supply in Trowbridge and we very much support the renewal of permission on this site.

The site should be mapped as already having consent and this was essentially an oversight from the preparation of the Core Strategy consultation document. As the site already has permission, it should

also have been listed as a Principal Employment Area which the proposed policy would seek to protect.

The Core Strategy Consultation is an additional and non statutory process, which we are undertaking to provide an additional opportunity for individuals and organisations to contribute to the process. On this basis, there is still an opportunity to ensure the document is appropriately updated and refined.

The proposals for this site are incorporated into the existing adopted West Wiltshire District Plan, First Alteration 2004 as allocation E1A. The delivery of this site is linked to residential development to the east of Trowbridge (allocation H11), which in turn will enable delivery of the West Ashton distributor road (to the east of the E1A allocation) and the Hilpertown Relief Road (allocation T5A).

The case made by the developer relating to the current downturn in the housing market and the need for the viability of the proposed residential development to be revisited appears to be compelling. The delivery of this and the associated sites listed above are considered to be very important for the future of Trowbridge. On this basis there is a clear planning policy precedent to support development on this site. There are no policy objections to the application. Further background information is provided below which may help to give some useful context to how the above application can contribute to the wider, strategic future of Trowbridge.

Work is underway to prepare the Wiltshire Core Strategy, which will replace the West Wiltshire District Plan and provide a strategic policy framework for Wiltshire up to 2026. A document entitled 'Wiltshire 2026 - Planning for Wiltshire's Future' was published for consultation in the autumn of 2009. This included proposals for future strategic housing and employment growth in the main towns across Wiltshire, including Trowbridge. A preferred location for strategic development was set out in this document for Trowbridge, which consisted of land to the south and south east of the town, either side of the West Ashton Road. This preferred location for growth also incorporated the site which features in this application. The identification of this site followed intensive assessment of all available sites around the town and also took into consideration any consultation responses from earlier stages of the plan making process. Overall, a good level of support for this proposal was received through the consultation responses and through a workshop held with key local stakeholders. This meeting included representatives from the Town Council, Chamber of Commerce, Economic Partnership, Local elected Councillors and others.

The proposed strategic development of this site is considered to represent the most appropriate location to accommodate growth in Trowbridge to provide for the medium and long term needs of the town. The future development of this site would deliver a number of benefits to the town.

Work is also under way to prepare a master plan for Trowbridge Town Centre. This is focused on regenerating a number of brown field sites in the town centre and strengthening the quality of the town, providing additional employment, improved retailing, centrally located housing, improved public transport connectivity and contributing to improved infrastructure and facilities for the town. This work is being prepared alongside the Core Strategy and it is considered that both of these planning tools are essential to ensure the aspirations of Trowbridge residents can be delivered.

The Trowbridge master plan is being driven by the Trowbridge Vision Board. The responses to Wiltshire 2026 included the clear messages that the town needed to grow (and many responses supported increasing the level of growth to that proposed), providing a significant increase in employment land allocated and providing for job creation, and improving infrastructure delivery. In particular improvements to the A350 interchange at Yarnbrook was called for. The evidence from the Wiltshire 2026 consultation and the consultation undertaken through the Trowbridge Vision work indicates that there is a clear appetite for growth and for improvements to infrastructure, facilities and employment growth in the town.

Ecologist - This site has been surveyed in the past to inform plans for the now permitted development to the east of Trowbridge (04/02105). As a result of the survey work, plans were agreed to form a 100m buffer to Green Lane Wood and a Country Park that would extend across to include the northern part of the existing application site (Blackball Brook); a Habitat Management Plan was agreed for this whole area, and plans to monitor the bat population included in this.

Survey work on land to the west of Biss Farm has also been updated (Aspect Ecology, May 2011) and, in terms of bats, the site was surveyed for tree roost potential and for foraging/commuting habitat potential. These habitats were considered to be limited at the site and restricted to the northern boundary, which as mentioned above, will be protected, enhanced and favourably managed in the long-term.

After reviewing the Aspect Ecology Assessment (cited above), the Council's Principal Ecologist confirmed that condition 22 as attached to 05/00744/FUL could be duly discharged since the assessment met the requirements of the condition. It is duly recognised that the wording of condition 22 was specific to water voles, however, the Ecological Assessment highlighted other ecological issues at the site, namely the presence of otters, which are a European Protected Species.

In discharging condition 22, the Council made the applicant aware that wildlife legislation is applicable beyond the planning system and the recommendations of the Ecological Assessment should be followed to avoid any breach of the legislation.

Officers recommend that condition 22 should now be amended so that any development on site accords with the recommendations contained within the approved ecological assessment. It is furthermore recommended that given that a reserved matters submission (pursuant to this permission) may not be submitted for another 5 years, the condition should also require a fresh ecological assessment to be submitted for the Council to assess - prior to the commencement of development on site.

## **8. Publicity**

The application was advertised by site notice / press notice / neighbour notification. Expiry date: 15th July 2011

Summary of points raised:

13 individual letters of objection received raising concerns about :

Impact on Surroundings:

There is no excuse to dig up the beautiful countryside.

There are alternative sites in Trowbridge, Westbury and Melksham which could be developed instead.

The existing industrial estates and business parks in Trowbridge are not full and have adequate capacity to meet increased demand.

The proposals would detrimentally affect local health and wildlife.

The green belt around Trowbridge should be protected.

The land is flood plain and developing the site could mean that the green buffer adjacent to the park will become much more at risk of flooding.

The site may well be zoned for employment use, but it will probably end up being small storage units which will provide little employment.

The existing road infrastructure is already inadequate. This development, without improvements, makes no sense.

The proposed development does not have local resident's support nor the support of the local MP.

The level of local opposition is in the form of individual letters and a signed petition (ref.

w/10/03031/FUL)

Why did the Council only neighbour notify local residents, why not notify all of Wiltshire? Why only limit notification to local area?

There should be a greater buffer / separation between industry and residential uses. Could the site attract small scale chemical and heavier industry?

The consolation country park strip is totally inadequate.

Increased noise and traffic pollution.

Since 1998, many vacant employment sites have become available in and around Trowbridge, and since writing to object to w/10/03031/FUL in October, the number of vacant employment sites have also increased.

This application would, as the local MP states, degrade the quality of life of his constituents.

The rarest bat in the UK, the Bechstein species, has a maternity roost in the Green Lane/Biss Wood, and this development would result in its loss.

This proposal should never have been accepted in 1998, and it shouldn't be now.



The site is not indicated as part of Wiltshire Council's Core Strategy (page 54 - map 5.5) for employment land. Why •?

Wiltshire Council appears to be going all out for economic growth, no matter at what cost to the landscape and environment. Unless checked, this development could lead to massive urban sprawl, resembling the mistakes made in Swindon and the south east of England. The Campaign for a better Trowbridge asks for low growth option to developing Trowbridge, instead of this development proposal.

The original conditions as attached to the previous approval should be retained.

Following the £600,000 environment tax bill levied on the Council, the Council's leader argued that Wiltshire's carbon footprint needed to be reduced. It therefore seems utterly irresponsible to sanction this development given the emissions from the factories themselves and increased traffic.

The international portents are ominous: we are confronted with the rapid rise of China, India and others. One hopes that a "hot" war will not happen, but competition is certain, economic conflict is very likely, and the appetite for all commodities, including food, will be enormous. The price of foodstuffs and fuel is high enough now, but things will become harder than in 1919 [the date of the Paris Peace Conference] or 1949 [when NATO was established] if we have to rely on our own land and feed ourselves; we now have less land available, and a population approaching 65 - 70 Million in time. Is this then a good time to go on building on green fields without some restraint? People who advocate this willy-nilly seem to me to care little for the future

Will Council Tax be reduced as the green belt will decrease together with the change from residential area to commercial?

The Council says it has a plan for the future, but it clearly does not take into account the views of the residents of West Ashton Road, West Ashton village and the surrounding area.

#### Linked Public Representations

Although not specifically submitted under this application, the Council recognises that a petition with 119 signatories objecting to the principle of extending the time period for submitting reserved matters pursuant to 98/01149/OUT, was received in respect to concurrent application w/10/03031/FUL. It is also acknowledged that the local MP submitted the following representation:

Having looked at the proposals, it is clear that the RSS plans, which I hope have been shelved followed the change of government, would dramatically alter the character of Trowbridge and surrounding communities. The planning application covers a major part of the RSS proposals. It is difficult to see how it would do anything other than degrade the quality of life of my constituents. The planning authority is urged to reject the application.

West Wilts CPRE concerns expressed on the earlier application:

Members are asked to reject the officer's recommendation to approve the renewal of planning permission for employment purposes on Land at Biss Farm West Ashton. The Secretary of State advises that applications of this nature should be refused where there is some material change, for example, a change in relevant planning policy for the area, a change in the relevant highway considerations, or the publication of new planning guidance.

I. The officer's report indicates that permission is conditional on the widening of the West Ashton Road, provision of a new roundabout, new distributor roads and - very importantly the improvement of the Yarnbrook roundabout. The latter of course is much more than a minor alteration to the road system - it involves a large infrastructure project on the A350 at Yarnbrook extending to the West Ashton crossroads. It is a major A350 'improvement'.

However since the cancellation of the Westbury Bypass and preparation of the replacement Local Development Framework, Local Plan policy TI and associated paragraphs regarding the A350, have not been saved. There is in fact no mention of a Yarnbrook West Ashton improvement in the Local Plan as a definite policy, and there is no safe-guarded corridor for the road, which is not even shown in the Local Plan Key Diagram. It would be quite wrong to agree a large new employment area when the major road improvement that is a condition of the construction of that area, has now no grounding in the Local Plan, or even in the Local Transport Plan. There is no evidence that the conditions of the outline planning permission can really be achieved.

2. In section 3 of the Officer's Report (on the earlier application) the text explains that additional new road links are safeguarded in the Plan to provide a northern link through Paxcroft Mead and the Hilperton Gap to the Staverton Diversion, Bath and the A46/M4. In fact the Local Plan Inspector pointed out in 2004 that there is no route or corridor to safeguard for the Staverton Diversion, and it would not be right that applications for planning permission should be considered in the light of a non-existent route and a scheme which is not likely to be constructed in the foreseeable future. The context of the development is thus altered.

3. The Local Plan is being superseded by the Wiltshire Core Strategy. This was to use the housing numbers and employment hectares for Wiltshire from the South West Regional Spatial Strategy. However, that has now been abolished. The Core Strategy is thus stalled as we decide as a county, exactly how much new development we want, and also await the new planning legislation and policy put forward by the Coalition Government. We are operating in a policy vacuum.

4. This policy vacuum has already affected other Wiltshire policy decisions. On pages 24 and 25 of the draft Local Transport Plan for 2011 -2026 (just recently issued) Wiltshire Council sets out very clearly the lack of clarity when it came to transport funding and spatial planning outlook. The Local Transport Plan sets out a one year Implementation Plan only. Wiltshire Council's transport team refused to go further than this because of uncertainty. There is a lack of clarity in terms of planning at the moment- Wiltshire Council have said so themselves. This is not a time to renew permission for a major employment site which is part of a very large urban extension to Trowbridge. The amount of growth may be inappropriate.

5. Since the original planning permission was granted the economic position of the country has changed. The failure to take up planning permission over the last twelve years during which the economy was doing comparatively well, makes it even less likely that the land will be developed in the next years to come. The economic situation is another clear material change to take into account.

6. Wiltshire has often complained of central control by London and with the coming of the Decentralisation and Localism Bill local people will have more control, which Members will no doubt welcome. The bill will devolve greater powers to Councils and neighbourhoods and give local communities control over housing and planning decisions. There is as well, a commitment to protect green areas of particular importance to local communities. All this amounts to a fundamental change in the way that planning is done. Renewing permission for a large unpopular development needs much more careful consideration and consultation than simply ticking the planning boxes.

## **9. Planning Considerations**

9.1 The main issue to consider is whether or not there have been any material changes to circumstances that would indicate a need to re-visit the decision made in respect of application reference 05/00744/FUL.

Fundamentally, it is essential to note that the application proposal is consistent with Development Plan Policy. The site continues to be allocated for employment development (defined as Policy E1A). Indeed, the comments from the Council's Spatial Planning section re-enforce the point that the site is an integral part of the future development of east Trowbridge, and the Town as a whole and the intention to include it as a principal employment area in the Core Strategy. The Council has repeatedly recognised that the delivery of strategic employment development continues to be dependent upon two other strategic Local Plan allocations coming forward, namely:-

The residential development on land south of Paxcroft Mead (Policy H11) - the site known as East Trowbridge Development; and Paxcroft Mead and Hammond Way Link Road (Policy T5) - the road known as Hilperton Relief Road.

In addition, there is recognition that it is difficult to market and develop employment land until it is accessed and serviced with the necessary infrastructure in place. As and when the reserved matters are approved for the residential development at land East of Trowbridge and the scheme is implemented, a new roundabout junction on the West Ashton Road and distributor road would be provided (as they are agreed prerequisites for any employment development at this identified site



labelled E1A in the Local Plan). This infrastructure would facilitate the servicing and opening up of the business park and enable effective marketing and the promotion of the employment site.

It is fully recognised that the Council has received a wide selection of objections. However, the Council has previously taken on board the issues raised. Infrastructural concerns can all be covered through planning conditions. Some locals raise concern about lack of jobs. Once granted and implemented, this site would deliver such jobs. Other concerns and objections relate largely to the principle of the development, which has clearly been established by the Council through approving previous renewals as being of great importance to the future development of Trowbridge. The comments received from the Council's spatial planning team highlight the importance of this adopted employment site.

Members are advised that key material considerations are:

1. Is it acceptable to the Council to allow an extension of time for an extant permission which the Council has identified as being of strategic importance to be developed as a business park and in the fullness of time, to provide jobs?
2. Are the attached conditions associated to 05/00744/FUL still appropriate/robust?
3. Can the reasons for refusal put forward on the earlier identical application be substantiated by robust evidence?

In answering point 1 above, it is necessary to note that there have been no material changes to the site circumstances that would indicate a need to re-visit the decision made in respect of application reference 05/00744/FUL. There have been no relevant local planning policy changes since this scheme was granted planning permission on 7 June 2005. The site is allocated for employment use in the current development plan and there is no proposal to change this emerging in the Core Strategy. As planning applications are required to be determined in accordance with the policies of the Development Plan, unless material considerations indicate otherwise, a refusal could only be supported if reasonable and robust reasons can be put forward based on substantial evidence that would be supported in an appeal. It has to be said that the material considerations in this case favour approval. The significant and wide reaching rapid economic downturn on a global scale is recognised as being a material consideration worthy of note, as is the increasing Government emphasis on supporting economic growth announced in the Ministerial Statement 'Planning for Growth', made in March 2011. Here, the Government's top planning priority was identified as being 'to promote sustainable economic growth and jobs. Government's clear expectation is that the answer to development and growth should wherever possible be 'yes', except where this would compromise the key sustainable development principles set out in national planning policy.' The statement goes on to state that authorities should 'give appropriate weight to the need to support economic recovery, that applications that secure sustainable growth are treated favourably'. The Secretary of State himself will 'attach significant weight to the need to secure economic growth and employment'. The reason put forward for refusal on the earlier identical application has been examined and is considered by officers to be unsupportable on appeal.

It is also true to say that the development of this employment site strongly relies upon the approval and implementation of the residential scheme at land East of Trowbridge (the Persimmon Homes site) and the completion of the Hilperton relief Road. A strong case has been made that the above two developments are at least 4 years away from completion and thus a condition allowing an extension of time for 5 years to submit phased reserved matters for the employment site is considered reasonable and justified.

With regard to the second point, the conditions have been updated to include the improvements at West Ashton Crossroads (condition 13) and the recommendations included in the TA (conditions 23-25 relating to a travel Plan and kerblin improvement work at County Way and Yarnbrook junction).

In addition, several of the conditions as attached to application 05/00744/FUL have been modified to make them more robust and precise. Others required some revision to ensure that the terms of this permission does not stymie undertaking infrastructure improvements as required by policy. Members are asked to note that condition 4 has been materially altered to delete the reference to provision of

public open space, which is not required by policy or considered necessary by the Council's Landscape Officer. Condition 22 requires to be amended to take on board the fact that an acceptable ecology survey was submitted, however it is considered prudent to condition any permission to require an updated ecology survey as well as stipulating that any development should adhere to the recommendations cited within any approved ecological assessment.

In relation to the third point, the lack of evidence that could be brought forward to defend an appeal has already been set out in the initial paragraphs of this report, as has the legal implications of seeking to defend that decision.

After a lengthy and detailed review of these matters, members are strongly encouraged to support this application, subject to the attached conditions.

**Recommendation:        Permission**

**For the following reason(s):**

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

**Subject to the following condition(s):**

- 1     Approval of details of the layout, scale and appearance of the building(s), means of access thereto and the landscaping of the site ("the reserved matters") for each phase of the development shall be obtained from the local planning authority in writing before any development in that phase is commenced.

REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004 and Article 3 of the Town and Country Planning (General Development Procedure) (Amendment) (England) Order 2006.

- 2     i) Application for the approval of reserved matters shall be made to the local planning authority before the expiration of 5 years from the date of this permission;  
      ii) The development hereby permitted shall be begun either before the expiration of 5 years from the date of this permission, or before the expiration of 2 years from the date of approval of the last reserved matter(s) to be approved, whichever is the later.

REASON: The application was made for outline planning permission and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990 and Article 3 of the Town and Country Planning (General Development Procedure) (Amendment) (England) Order 2006.

- 3     The details submitted pursuant to condition 1 above, shall include a phasing programme including highway and infrastructure improvements shall be approved in writing by the local planning authority. Thereafter, the highway and infrastructure improvements in each phase shall be carried out in full accordance with the approved plans (pursuant to condition 1), prior to any building being brought into use on that phase.

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

- 4     In order to ensure an appropriate mix of uses in accordance with the objectives of the Development Plan, and the employment requirements of the area, each phase of development shall provide that not less than 70% of the gross floor space of any subsequently approved building(s) shall fall within B1 or B2 Use Classes as defined with the Town and Country Planning (Use Classes) Order 1987.

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

- 5 To ensure a satisfactory landscaped setting for the development, the site shall be landscaped in accordance with a landscaping scheme which shall be subject to the prior approval of the local planning authority and shall be carried out concurrently with each agreed phased stage of the development. The approved scheme for each stage shall be implemented in the first appropriate planting season of the implementation of that stage using trees and shrubs of approved species and height and be maintained thereafter for a period of not less than five years. Any tree and shrubs which fail within that period in that stage shall be replaced with the agreement of the local planning authority and be subsequently maintained for a further period of five years.

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

POLICY: West Wiltshire District Plan Policy C32 and C40.

- 6 To reserve control to the local planning authority over the external materials of construction and to ensure that the appearance of the buildings is in keeping with the established local character, a schedule of the external materials to be used in the construction of building(s) shall be submitted to and approved by the local planning authority prior to any building(s) being constructed on site. No buildings shall be constructed until details relating to the buildings have been approved. The buildings shall thereafter be constructed in accordance with the approved details.

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

- 7 In the interests of flood prevention, no development pursuant to the erection of any building(s) shall be commenced until a scheme of positive surface water drainage to the River Biss has been designed, agreed by the local planning authority, and constructed to the satisfaction of the Council. Such a scheme shall include for the provision of sheet run-off from the site to be discharged via a new drainage ditch from the site to the River Biss.

REASON: In the interests of flood prevention.

POLICY: Government Guidance PPS25 - Development and Flood Risk.

- 8 In the interests of flood prevention, no development pursuant to the erection of any building(s) shall be commenced until a scheme of realigning the Blackball Brook and the regrading of the floodplain has been designed, agreed by and completed to the satisfaction of the local planning authority. Such works shall make provision for future maintenance access to the brook and subsequently no development shall take place within 30 metres of the Brook.

REASON: In the interests of flood prevention.

POLICY: Government Guidance PPS25 - Development and Flood Risk.

- 9 In the interests of pollution control, no development pursuant to the erection of any building(s) shall be commenced until a scheme showing the location of all areas required for the open storage of goods, materials and wastes has been submitted and agreed in writing by the local planning authority. All vehicle parking areas, service areas and yard spaces shall be constructed of impermeable materials and suitably sized oil/chemical/petrol interceptors shall be incorporated in related surface water drainage systems.

REASON: To prevent pollution of the water environment.

POLICY: Government Guidance PPS23 - Planning and Pollution Control.

- 10 In the interests of pollution control, all oil or chemical storage tanks shall be surrounded by an impervious bund with a retention capacity of at least 110% of the largest tank within the bunded area and no working connections shall be made outside the bunded area. Waste oils and

chemicals shall be collected and disposed of in an approved manner and no waste oils or chemicals shall be discharged to any drainage system.

REASON: To prevent pollution of the water environment.

POLICY: Government Guidance PPS23 - Planning and Pollution Control.

- 11 In the interests of highway safety, there shall be no vehicular access to the employment site other than via a new roundabout on the West Ashton Road and distributor road. No other vehicular access points shall be formed off West Ashton Road serving this site.

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

- 12 The details of access to the site (pursuant to condition 1 above) shall include a distributor road between the site access roundabout as indicated in outline on drawing no. FP 089/3 Rev E on the West Ashton Road and the north-eastern boundary of the site on a line and level to be agreed with the local planning authority. There shall be no direct frontage access to the distributor road, and no more than two side road junctions onto the distributor road.

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

POLICY: West Wiltshire District Plan Policy T4

- 13 No development shall commence on site until a scheme of works for the widening of the West Ashton Road, improving Blackball Bridge and West Ashton Crossroads, and providing for the completion of a road link from the West Ashton Road to the north-eastern boundary of the site has been submitted to and approved in writing by the local planning authority. The scheme shall include a detailed phasing programme relating the progress of the works to occupied floor space on the site. All highway works/infrastructure improvements shall be carried out in full accordance with the approved scheme.

REASON: In the interests of highway safety.

POLICY: Government Guidance PPG13 - Transport.

- 14 To ensure that the extension of the distributor road is not prejudiced by the failure to complete the part of the works within the site in a reasonable timescale, no more than 20,000 square metres of gross floor space on the site shall be occupied until arrangements securing the completion and adoption of the distributor road to the north-eastern boundary of the site, have been submitted to and approved in writing by the local planning authority.

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

POLICY: West Wiltshire District Plan Policy T4

- 15 To ensure safe access to the site, no development, other than that relating to site earthworks, drainage, landscaping and access works shall be commenced until the roundabout, indicated in outline on drawing no. FP 089/3 Rev E, has been completed with the written approval of the local planning authority.

REASON: In the interests of highway safety.

- 16 In the interests of highway safety and to encourage transport modes other than the private car, no building(s) shall be occupied until the following provision has been made for pedestrians and cyclists:

- i) a pedestrian crossing on the West Ashton Road at the western extremity of the site;
- ii) a footpath/cycleway route linking the pedestrian crossing on the West Ashton Road with the proposed Eastern Distributor Road and the proposed Biss Meadows Country Park;

iii) other footpath/cycleway routes connecting to ii) above to provide access through the rest of the site. Such provisions shall be in accordance with details that shall have first have been submitted to and agreed in writing by the local planning authority before any development pursuant to the erection of any building(s) is commenced on site in connection with the development hereby permitted. Development shall take place in full accordance with these approved details.

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

POLICY: Government Guidance PPG13 - Transport and West Wiltshire District Plan Policy T11 and T12.

- 17 In the interests of highway safety, the field accesses shown at points D and E on drawing no. FP 089/3 Rev E shall be permanently stopped up and replaced by a single agricultural access shown at point F prior to any building on the site being occupied, in accordance with details to be submitted to and approved by the local planning authority.

REASON: In the interests of highway safety.

- 18 To prevent pollution of the water environment, details of a scheme for the provision of foul drainage works shall be submitted to and approved by the local planning authority before any development pursuant to the erection of any building(s) is commenced on site. Once approved, the scheme shall be carried out in full accordance with the agreed scheme and proposed phasing.

REASON: To prevent pollution of the water environment.

POLICY: Government Guidance PPS23 - Planning and Pollution Control.

- 19 In order to protect the visual amenities of the area, the submission of landscaping details as required by condition 5 above, shall include a permanent 30 metre landscaping buffer around the site which shall require the prior approval of the local planning authority prior to the erection of any building(s) on the site. The prior approval of the local planning authority will also be required in terms of the phasing and future maintenance of the landscaping buffer for the lifetime of the development.

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

POLICY: West Wiltshire District Plan Policy C32.

- 20 To ensure adequate parking and servicing provision is available at the time future uses are commenced, detailed plans of the parking and servicing areas, together with the means of access thereto, shall be submitted to and approved by the local planning authority before the erection of any building(s) to which it relates commences on site. The detailed proposals shall indicate the provision to be made for the draining of the parking and servicing areas, the individual marking and landscaping of car parking spaces and serviced areas where appropriate and full details of their method of construction. All works referred to in this condition shall be completed and the parking/servicing areas shall be available for use before the buildings to which they relate are occupied.

REASON: in the interests of highway safety.

POLICY: West Wiltshire District Plan Policy T10.

- 21 In order to protect the visual amenities of the area, the submission of details as required by condition 5 above, shall include a plan indicating the location of all existing and proposed trees and hedgerow along with a schedule identifying each species.



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

POLICY: West Wiltshire District Plan Policy C32 and C40.

- 22 In order to protect any wildlife interest on the site, prior to the commencement of any development (i.e. building work or on-site infrastructure improvements), an updated ecological survey (following on from the approved recommendations contained within the Aspect Ecology report dated May 2011) shall be carried out to establish the presence of any protected species on or immediately adjacent to the site, the level of any identified population and the extent their habitat. The survey results and any necessary mitigating measures to avoid causing harm to any protected species shall be submitted and approved by the local planning authority. Details shall, as appropriate, include any necessary measures to safeguard any protected habitats and species found on site. Following the approval of such details, any agreed mitigation shall be implemented in accordance with an agreed timetable and phasing, as appropriate.

REASON: To mitigate against the loss of any existing biodiversity and nature habitats.

POLICY: Government Guidance PPS9 - Biodiversity and Geological Conservation.

- 23 No development shall commence until a detailed scheme for the improvement of the County Way (A361) junction with West Ashton Road, in accordance with drawing No. "Figure 15" of the Transport Assessment dated 12.05.2011, has been submitted to and approved in writing by the LPA. Following any approval of such details, the improvement work shall be completed in accordance with the approved details before the first occupation of the business park development.

REASON: In the interests of road safety and reducing vehicular traffic to the development.

- 24 No development shall commence until a detailed scheme for the improvement of the junction between the A363 and the A350 at Yarnbrook, in accordance with drawing No. "Figure 16" of the Transport Assessment dated 12.05.2011, has been submitted to and approved in writing by the LPA. Following any approval of such details, the improvement work shall be completed in accordance with the approved details before the first occupation of the business park development.

REASON: In the interests of road safety and reducing vehicular traffic to the development.

- 25 No development shall commence until a Travel Plan has been submitted to and approved in writing by the local planning authority. The Travel Plan shall include details of the implementation and monitoring. The results of the implementation and monitoring shall be made available to the local planning authority on request, together with any changes to the Travel Plan arising from those results.

REASON: In the interests of road safety and reducing vehicular traffic to the development site.

- 26 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans:

SITE LOCATION PLAN - drawing no. P.0639\_01 received on 03.06.2011.

PROPOSED ACCESS ARRANGEMENTS AND CORRIDORS PLAN - drawing no. FP089/3 Rev E received on 03.06.2011.

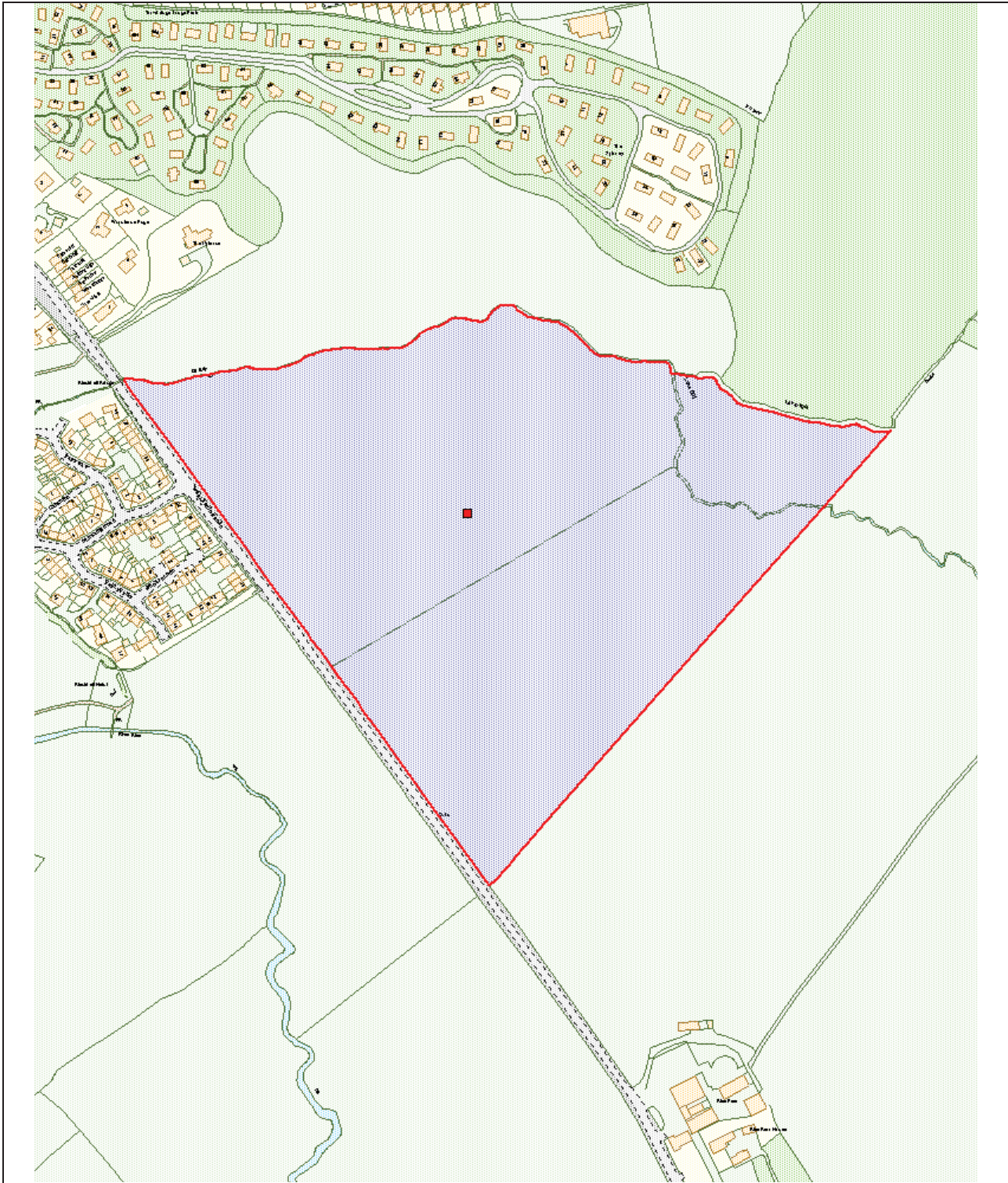
REASON: To ensure that the development is carried out in accordance with the approved plans that have been judged to be acceptable by the local planning authority.

**Informative(s):**

- 1 Prior to any development commencing on site, the applicant/developer is advised to contact Wessex Water to agree points of connection to the public water and sewer networks.



|                                                                             |  |
|-----------------------------------------------------------------------------|--|
| <b>Appendices:</b>                                                          |  |
| <b>Background Documents<br/>Used in the Preparation of<br/>this Report:</b> |  |



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[www.wiltshire.gov.uk](http://www.wiltshire.gov.uk)

MSA: 100022961

## REPORT TO THE WESTERN AREA PLANNING COMMITTEE

|                            |                                                                           |                                                                 |             |
|----------------------------|---------------------------------------------------------------------------|-----------------------------------------------------------------|-------------|
| <b>Date of Meeting</b>     | 04.01.2012                                                                |                                                                 |             |
| <b>Application Number</b>  | W/11/02019/REM                                                            |                                                                 |             |
| <b>Site Address</b>        | Durlston Hilperton Road Trowbridge Wiltshire                              |                                                                 |             |
| <b>Proposal</b>            | Amendment to granted reserved matters W/11/00271/REM approved 04/04/2011. |                                                                 |             |
| <b>Applicant</b>           | Mr Ian Butler                                                             |                                                                 |             |
| <b>Town/Parish Council</b> | Hilperton                                                                 |                                                                 |             |
| <b>Electoral Division</b>  | Hilperton                                                                 | <b>Unitary Member:</b>                                          | Ernie Clark |
| <b>Grid Ref</b>            | 386952 158680                                                             |                                                                 |             |
| <b>Type of application</b> | Reserved Matters                                                          |                                                                 |             |
| <b>Case Officer</b>        | Mr Matthew Perks                                                          | 01225 770344 Ext 01225 770207<br>matthew.perks@wiltshire.gov.uk |             |

### Reason for the application being considered by Committee

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

- \* Relationship to adjoining properties
- \* Design - bulk, height, general appearance
- \* Environmental/highway impact; and
- \* Car parking

The Councillor also raises the further issues:

- "a) There will be loss of amenity to the owners of plot 3 and also residents of 115 and 115a Hilperton Road.
- b) There will undoubtedly be issues connected with parking. Has Highways been notified about the increase in traffic which will be caused by members of staff travelling to and from the site?
- c) The changes to the fenestration are inappropriate.
- d) There could be problems connected with drainage which Wessex Water should be made aware of.
- e) The size and scale of the conservatories is unacceptable.

I do not consider that these are 'minor' alterations. A new planning application would be more appropriate."

### 1. Purpose of Report

To consider the above application and to recommend that the revision to reserved matters is granted approval.

Neighbourhood Responses

No neighbour comments received.

Parish/Town Council Response

Hilperton Parish Council objects to the proposal for the reasons shown in the "Consultations" section below.

## **2. Report Summary**

This report assesses revisions to plans approved under application Ref: W/10/02449/REM for reserved matters details in respect of the Outline Planning permission 08/01089/OUT (Replacement of existing dwelling and erection of 2 additional dwellings).

The revisions are proposed so as to enable two of the three permitted dwellings to be utilised in the care for people with autism. The proposals involve alterations to the internal room layouts and certain exterior changes. The report assesses the impact of the proposed changes as well as the issue of whether or not a change of use would arise, and recommends approval.

## **3. Site Description**

The site is currently under development in terms of Permission granted under 08/01089/OUT and the Reserved matters approved under W/10/02449/REM. That scheme involved the replacement of a then existing dwelling and the erection of two additional dwellings. It measures some 0.4 ha in extent and is elongated in shape, with a depth of approximately 150m from Hilperton Road. Open space lies to the north east, whilst to the south west there is residential development characterised by fairly large family homes on generous plots. A further characteristic of the area is a corridor of open space approximately 70m wide to the south east of Hilperton Road, partially formed on this site, but also extending westwards towards Trowbridge town. Access is gained via the original entrance to the site, modified in accordance with the approved plans.

## **4. Relevant Planning History**

08/01089/OUT: Replacement of existing dwelling and erection of 2 additional dwellings : Permission : 12/05/2008

W/10/01742/DEM : Prior notification in respect of demolition : Details approved : 14.07.2010

W/10/02449/REM : Application for approval of reserved matters: 3 dwellings granted permission under application 08/01089/OUT : Approved : 20.09.2010

W/11/00271/REM : Amendment to granted reserved matters W/10/02449/REM - alterations to fenestration, addition of summer house and shed on Plot 3 : Approved : 04.04.2011

## **5. Proposal**

The proposal is for alterations to the dwellings on Plots 1 and 2 of this three unit development only (Plot 3 development has already commenced in terms of the original permission/approval). The changes are proposed to meet the specific needs of the applicant, "Homes Caring for Autism." The applicant aims to use the dwellings on plots 1 and 2 as homes for people with autism including care provided for the residents. The approved internal layout of the dwellings was for 4 bedroom dwellings. This has been revised on plots 1 and 2 to allow for 5 and 6 people respectively to live within the dwellings.

However, the proposed dwellings themselves are located in the same position as that previously approved and are of the same height and general appearance. The main external alterations are the addition of single storey conservatories to plots 1 and 2 and alterations to the fenestration, with more rooflights added.

## **6. Planning Policy**

West Wiltshire District Plan - 1st Alteration

H1: Further housing development within towns.

C38 : Nuisance

C31a : Design

C17: Conservation Areas

PPS3Housing



## 7. Consultations

### Town/ Parish council

Hilperton Parish Council objects to the proposals on the following grounds:-

- " a) There will be loss of amenity to the owners of plot 3 and also residents of 115 and 115a Hilperton Road. Could you let the Parish Council know if these neighbours have been fully informed of the proposals.
- b) There will undoubtedly be issues connected with parking, and the Parish Council would wish to know if Highways have been notified about an increase in traffic which will be caused by members of staff travelling to and from the site.
- c) The changes to the fenestration are inappropriate.
- d) There could be further problems connected with drainage which Wessex Water should be made aware of.
- e) The size and scale of the conservatories are considered unacceptable."

The Parish Council also considers that these are not 'minor' alterations and that a new planning application should be submitted. The Parish further advised that the Local Member had been requested to call the application in to Committee.

### Highways

The proposed amendments do not affect the approved layout of the site, therefore, no Highway objection is raised.

### Wessex Water

No comment received.

### Landscape Officer

No further comments.

## 8. Publicity

The application was advertised by site notice and neighbour notification.

Expiry date: 06.12.2011 - No neighbour comments were received.

## 9. Planning Considerations

### *Use Class considerations*

The first set of plans submitted for this application included en-suite bathroom facilities for all "service users" plus other facilities that gave rise to concerns about the C3 (Dwelling House) use being changed. Whilst Use Class C3 (b) does allow for up to 6 residents living in a single dwelling, including those living together as a single household and receiving care, the originally proposed internal configuration as well as the nature of the management and training facilities to be provided indicated that the proposal potentially moved beyond a C3 Use to a C2 (Residential Institution) use.

Class C2 is described as a 'use for the provision of residential accommodation and care for those in need of care'. Class C3(b) refers to the use of a dwellinghouse (b) by not more than 6 residents living together as a single household (including a household where care is provided). C2 thus implies accommodation which by its very nature is linked to the provision of care. The emphasis of C3(b) implies situations where there is an element of care, but which is incidental to the use of the property for residential purposes.

Case law further suggests that the greater the level of care provision and less able the residents are able to function independently as a viable unit, the more likely the use is to fall within C2. In this instance the residents would be supported by carers who are non-resident, while the residents would

be living as a household whilst attempting to progress to greater independence. It would equally be wrong and counter to public policy or government guidance if there was a principle that those who suffer disability and who are in need of care to enable them to function (e.g. supported living) could never constitute a household.

Following negotiations with the applicant a revised set of plans was submitted. Changes to the revised plans include the removal of 1 bedroom from Plot 1 to form a 5 bedroom dwelling, although Plot 2 would remain a 6 bed dwelling. Other changes are the introduction of a shared bathrooms and the removal of 2 of the en-suites per dwelling, the removal of the offices to be replaced by a "study" area for residents, the removal of staff training and activity facilities and the retention of a single garage per unit.

In addition to the drawings the agent has clarified the nature of the use. The level of care proposed would be as follows:

- residents would require only a limited amount of care, limited to staff numbers of 1 per 2 residents, on a 2 shift pattern during the day;
- one additional member of staff will be present on site at the handover between shifts;
- formal management responsibility will be by way of an Area Manager based in Somerset;
- each dwelling would operate with a senior staff member in charge on a day to day basis;
- each resident will be allocated help and assistance as opposed to full time care from a carer during the day, with carers being non-resident, present from 07.45 am to evenings to help and assist the residents including accompanying them in their daily lives off-site as well;
- the level of staff support may reduce over time as independent living skills improve.

In view of the above it is considered that the proposal qualifies under a C3(b) use.

#### *Design and impact on neighbouring amenity*

The siting and height of the 2 dwelling units remains as was originally permitted, i.e. on fairly generous plots on the south western side of the property, set back a minimum of 70m from Hilperton Road and served by a driveway towards the north eastern boundary. The relationship to existing dwellings to the south west (115 and 115a Hilperton Road) is such that side elevations to the proposed dwellings would face those properties. New ridgelines to Plot 1 would not exceed those of the existing No.115a.

In noting the Parish and Local Member comments, the following observations are considered relevant:

The dwelling to plot 1 would be approximately aligned with the side elevation to No. 115a. No upper level openings are proposed to the side elevation to the dwelling on plot 1. The Plot 2 dwelling would be located to the north east of an existing triple garage (now understood to have been partially converted to habitable use) serving the dwelling at No. 115. Although this new building would have a fairly elongated elevation (16m) parallel to the boundary, the 9m length of the existing garage would occupy the intervening space between the new building and the dwelling at No. 115.

There is one window on the first floor (South-West elevation) which serves a bedroom to Plot 2. This window would be orientated such that it would look towards the triple garage building which has no windows other than rooflights to the north-east facing elevation. Views over the garden to 115a would be at a relatively obscure angle to the proposed bedroom window.

The front-facing windows to Plot 2 at first floor level would to a degree potentially overlook the rear garden space to No.115a, with a section of the northern corner being within the 45 angle of view from the nearest bedroom. However, this window is some 8m from the property boundary and would be at least 22m from the rear elevation to the dwelling on that site, with the nearest window in the existing elevation facing Plot 2 serving a bathroom.. No 115 itself has one upstairs side-facing window orientated towards the site, but this serves a bathroom, according to the information available. Furthermore, the side facing elevation to No. 115 would face a gap between the proposed dwellings to plots 2 and 3, with both of the new dwellings at fairly obscure angles to that elevation.



The separation distance between upper level windows to habitable rooms in Plot 2 and the newly built unit on Plot 3 would remain a wholly acceptable 24m.

The buildings would all be located at a minimum of 70m from the street frontage, across the road from the Conservation Area. No harm would arise to the Conservation Area setting.

Given the above context, it is considered that no unacceptable issues of loss of privacy or light, or sense of overbearing would be likely to arise.

With regard to the question of advertising as raised by the Parish records indicate that the neighbouring properties, including those to the south east and the new dwelling on Plot 3, were sent neighbour letters. A site notice was also posted at the entrance to the site on Hilpertown Road.

Highways were consulted and have not raised any objections. In terms of parking provision on site, Plot 1 has 6 parking spaces allocated (excluding the garage area). Plot 2 proposes 5 spaces (again excluding the garage area). The applicants advise that residents will not own cars and the site would have a family sized car in order to take residents shopping etc. The parking and manoeuvring areas would be remote from the site access and no public highway safety issues would arise from the on-site movement or parking of vehicles. There would be an increase in use of the actual site access but, again, the highway officer has not raised any objection in that regard.

With regard to issues such as the size of the conservatories and design features such as fenestration, the dwellings would be located on generous plots, and are not seen in the context of a typical "street scene" being arranged beside the private driveway and in a situation screened from both the north east and south west. It is considered that no unacceptable harm to the local setting can be argued in this context, where the dwellings would appear as individual, relatively up-market, units on their own fairly large properties and not as part of a uniform street scene. The conservatories would be light weight glazed structures, enhancing the usability of the outdoor spaces on site.

Boundary treatments, as before, would be either a 1.8 m existing fence or the mature hedgerow towards the southern end of the site. The use remains essentially residential and the applicants advise that a management strategy is in place to address any nuisance issues.

With regard to drainage, Wessex Water was consulted and has made no comment. Checking the site history it is noted that on the previous reserved matters, WW did not wish to comment beyond the outline application. At the Outline stage, no objection was raised.

In short, the proposals are little different from those already approved, and the minor changes to the design and appearance do not give rise to any new issues that justify a different decision to the approvals already given.

**Recommendation:        Permission**

**For the following reason(s):**

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

**Subject to the following condition(s):**

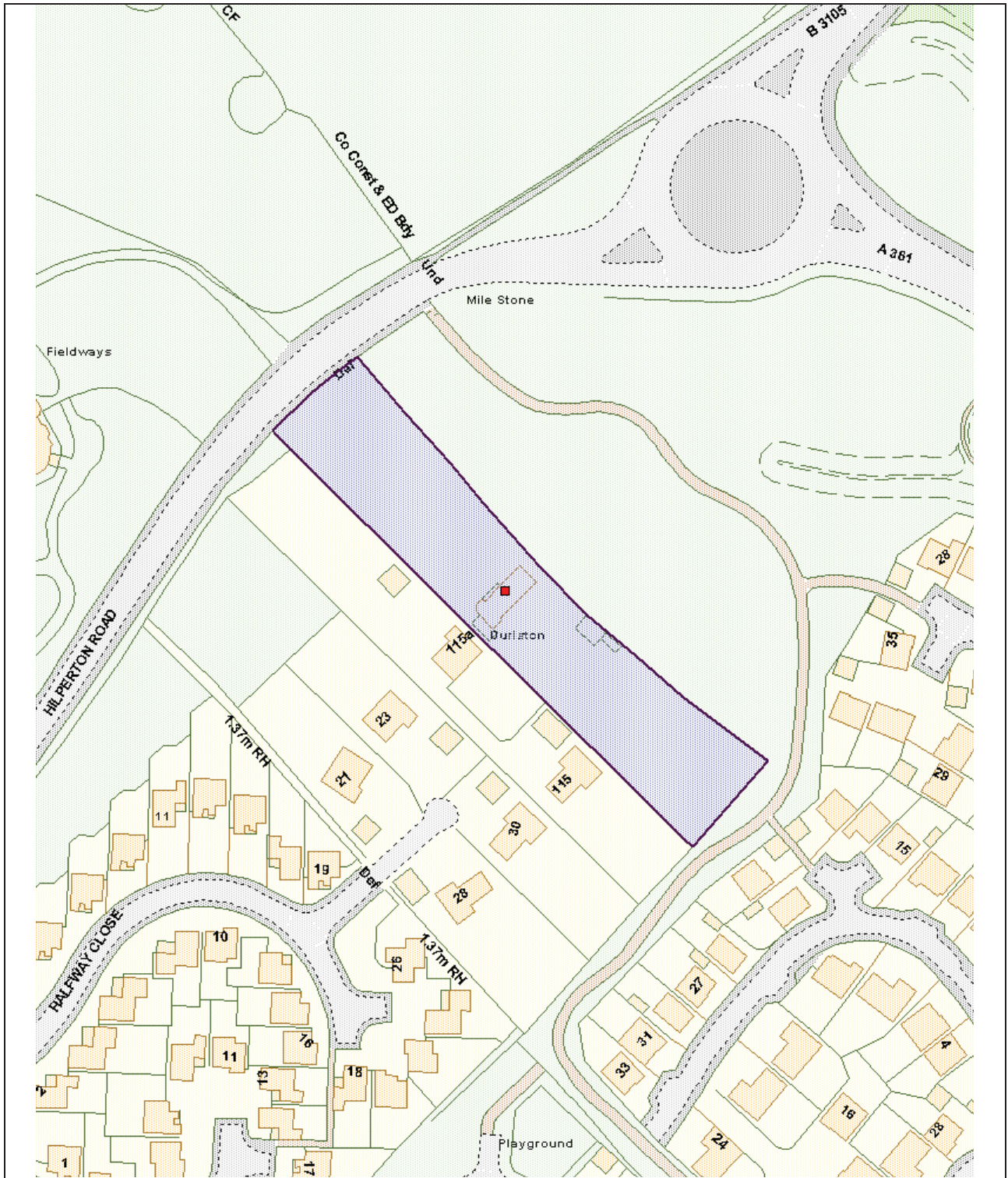
- 1     The Landscaping of the site shall be carried out in accordance with the approved landscaping plan AH2010/31a Sheet 8 of 8 Rev A, following consultation with Landscape Officer on the replacement trees shown on that drawing.

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

**Informative(s):**

- 1 The applicant is advised that the development must comply with the conditions and planning obligations imposed on Outline Permission reference 08/01089/OUT.

|                                                                     |  |
|---------------------------------------------------------------------|--|
| <b>Appendices:</b>                                                  |  |
| <b>Background Documents Used in the Preparation of this Report:</b> |  |



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## REPORT TO THE WESTERN AREA PLANNING COMMITTEE

|                            |                                               |                                                                 |             |
|----------------------------|-----------------------------------------------|-----------------------------------------------------------------|-------------|
| <b>Date of Meeting</b>     | 04.01.2012                                    |                                                                 |             |
| <b>Application Number</b>  | W/11/02981/FUL                                |                                                                 |             |
| <b>Site Address</b>        | 175 Devizes Road Hilperton Wiltshire BA14 7QS |                                                                 |             |
| <b>Proposal</b>            | Brick outhouse (retrospective)                |                                                                 |             |
| <b>Applicant</b>           | Mr P Cole                                     |                                                                 |             |
| <b>Town/Parish Council</b> | Hilperton                                     |                                                                 |             |
| <b>Electoral Division</b>  | Hilperton                                     | <b>Unitary Member:</b>                                          | Ernie Clark |
| <b>Grid Ref</b>            | 387851 159194                                 |                                                                 |             |
| <b>Type of application</b> | Full Plan                                     |                                                                 |             |
| <b>Case Officer</b>        | Mrs Kate Sullivan                             | 01225 770344 Ext 01225 770244<br>kate.sullivan@wiltshire.gov.uk |             |

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

- a. The building is outside the VPL of Hilperton
- b. To protect the right of the parish Council to express its opinion to the LPA.
- c. Scale of the development
- d. Design of the development

### 1. Purpose of Report

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

Neighbourhood Responses - None received

Parish Council Response - No objection

### 2. Report Summary

The main issues to consider are:

- \* Impact on the appearance of the area.
- \* Impact on the amenity of neighbouring properties.

### 3. Site Description

The proposal is located within the garden area to the rear of the detached property known as 175 Devizes Road, Hilperton.

The site currently is a flat lawn with a large number of trees although the majority within the site are small fruit varieties. Open countryside lies to the north and east with a public footpath alongside the eastern boundary.

### 4. Relevant Planning History

07/03008//FUL - Erection of detached two storey house and double garage including alterations to access - Refused 4/1/08;

08/01736/FUL - Two Storey Extension - Permitted 25/7/08



## 5. Proposal

This is a retrospective application for a modest sized brick outbuilding measuring approximately 3.6 metres in depth by 4.1 metres in width and 3.8 metres in height under a tile pitched roof located at the far end of the residential garden.

## 6. Planning Policy

West Wiltshire District Plan 1st Alteration 2004  
C31a Design; C38 Nuisance

## 7. Consultations

Parish council

Hilperton Parish Council has no objection to make.

## 8. Publicity

The application was advertised by site notice/press notice /neighbour notification.

Expiry date: 16th December 2011 - No representations received.

## 9. Planning Considerations

Impact on the appearance of the area

The proposed building has been situated at the far end of a large garden, and requires planning permission as it is within 2 metres of the boundary and exceeds 2.5 metres in height.

The out building has been constructed of brick with a hipped roof with concrete roof tiles matching the existing dwelling. The proposal has no adverse impact on the appearance of the area.

Impact on the neighbouring amenity

A single opening window has been inserted in the right and left elevation and double softwood doors have been inserted in the front elevation that overlook the host dwellings garden.

The Village Policy Limit passes between 176a and 177 Devizes Road some 55 metres to the west of the development site and excludes this house and the others to the east on this side of Devizes Road. However, the outhouse is located within the domestic garden of the host building, is used ancillary to the main dwelling, for garden equipment storage, and does not have a detrimental effect on neighbours or the users of the public rights of way.

There are no grounds for refusing permission for this garden outbuilding.

**Recommendation:        Permission**

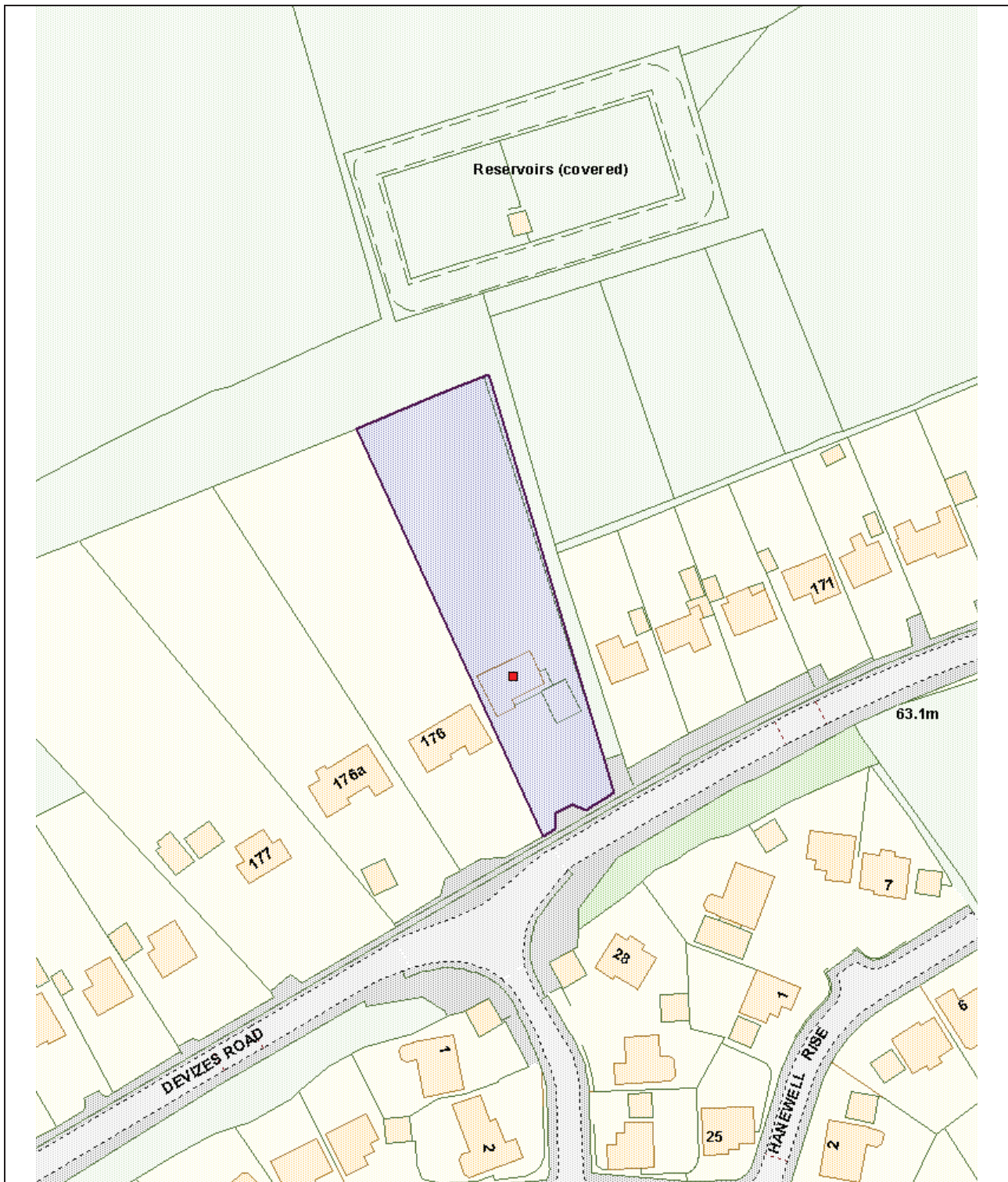
**For the following reason(s):**

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

|                    |  |
|--------------------|--|
| <b>Appendices:</b> |  |
|--------------------|--|



**Background Documents  
Used in the Preparation of  
this Report:**



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